

MOSS v. BALLARD
CASE NO. 2:09cv01406

RESPONDENT'S EXHIBIT 20
(CONTINUATION, pp. 751 - 900)

Reggettz - Cross

751

1 back and crossed the child's wrists and pulled the cord
2 tight around his hands; do you recall that, sir?

3 A Yes, sir.

4 Q And yet you carried the child into the
5 bathroom and placed him face down in the remains of bath
6 water that was still standing in the tub; did you tell
7 them that?

8 A I remember telling them that I carried
9 him into the bathroom.

10 Q Do you remember making that statement?

11 A No, I was just telling you what I
12 remembered that I told them -- that I picked him up and
13 put him into the bathtub. I don't remember anything
14 about the water.

15 Q Do you remember telling Trooper
16 Woodyard that your son said, "Don't, daddy; don't,
17 daddy"?

18 A Yes, I told him that.

19 Q And you stated after putting your son
20 in the tub, you returned to the bedroom where you saw
21 your daughter at her mother's side, and you said the
22 little girl was pushing at her mother saying, "Get up,
23 mommy. Wake up."

24 Do you remember saying that, sir?

Reggett - Cross

752

1 A I told them that.

2 Q And you then grabbed the child around
3 the waist with one hand and carried her into the front
4 bedroom; do you recall that?

5 A No, I don't.

6 Q Then you grabbed an electrical cord and
7 wrapped it around the child's neck and pulled it tight
8 until she stopped moving.

9 Do you recall that?

10 A I remember saying something like that.

11 Q You tied that cord around her neck and
12 picked her up and looped the cord over top of the door
13 and let her body be against the door; do you remember
14 telling them that?

15 A Yes, I told them that.

16 Q And you walked into the back bedroom
17 where your wife's body was and you became afraid she
18 might still be alive and you went into the bathroom and
19 found a pair of scissors; do you recall telling them
20 that?

21 A Yes, sir.

22 Q And you went to your wife's body and
23 knelt down, and using both hands, pushed the scissors
24 into her chest; do you recall that?

Reggettz - Cross

753

1 A I remember but I thought I told them I
2 put the scissors in her in her bedroom; I don't remember
3 being in the front bedroom. I thought I told them I put
4 the scissors in her in the back bedroom.

5 Q Do you remember telling Trooper
6 Woodyard that you felt very tired?

7 A Yes, sir.

8 Q So, you laid down on the bed and went
9 to sleep?

10 A Yes, I told them that.

11 Q And you slept until 1:00 o'clock, and
12 then you got up and dressed for work; do you remember
13 that?

14 A No, I don't remember that.

15 Q You watched part of Baretta on
16 television; do you remember that?

17 A Yeah, I had watched Baretta.

18 Q And you put the broken handgun on the
19 floor and took the rifle that you had in the house down
20 to the car; do you recall that?

21 A Yes, sir.

22 Q You said you thought you should get rid
23 of the rifle because you didn't want the Police to think
24 you might be a dangerous person; do you recall that?

Reggett - Cross

754

1 A No, I don't.

2 Q You returned to the house and pulled
3 down the sheet from the door in the kitchen and placed
4 it on the floor; do you recall that?

5 A No, I don't.

6 Q And you took some spoons and placed
7 them on the sheet, and you did this for the purpose of
8 making it appear that someone had broken into the house
9 in an attempt to steal; do you recall that?

10 A I vaguely remember something about
11 that, but I don't remember it very well.

12 Q And you said you felt -- by having your
13 family dead -- you felt that a heavy weight had been
14 taken off of you; do you recall that?

15 A Yes.

16 Q And you testified that ---

17 A I testified -- I told them ---

18 Q And you told Trooper Woodyard -- and I
19 quote, "I felt free"?

20 A Yes, I told him that.

21 Q You felt free to be relieved of no
22 longer having a responsibility; do you remember saying
23 that?

24 A No, I don't.

Reggett - Cross

755

1 Q And you stated that while driving to
2 work, on the bridge on I-77, you threw the rifle into the
3 river; do you recall that?

4 A No. I just remember telling him that
5 I threw the rifle in the river at the first -- I don't
6 know exactly what bridge -- the first bridge that crosses
7 the Kanawha River. I just said I threw the gun in the
8 river.

9 Q And you said that the gun was thrown
10 out and that you could not remember where; do you
11 remember that?

12 A No, I don't.

13 Q And you further stated that while at
14 work you felt good, you started getting a little nervous
15 around quitting time; do you remember that?

16 A Yeah, I told him that.

17 Q And you stated that you parked your car
18 at the house and went in the back door and walked through
19 the house looking at the bodies, and you started to go
20 out the front door but decided to take your daughter's
21 body down; do you recall that?

22 A No, I don't.

23 Q You said you lifted the body off the
24 bedroom door and laid it on the bed; do you recall

Reggettz - Cross

756

1 telling them that?

2 A No, I don't.

3 Q You stated that you went out the front
4 door and ran down the driveway and out to Route 60. Do
5 you recall telling him that?

6 A I remember telling him that.
7 Originally, what happened ---

8 Q This is December 13th you were telling
9 him that; do you remember that?

10 A I remember telling the incident that
11 had happened the night before, that night and that
12 morning, when I come home.

13 Q And that you went inside there and came
14 back out; do you recall that?

15 A No, I don't.

16 Q A few minutes later, you entered the
17 restaurant and laid a dollar on the counter and told the
18 Clerk to call the Police, that your family had been
19 killed. You then left the restaurant and returned home.
20 Do you recall that?

21 A I didn't say -- I told him -- what I
22 told him was, I throwed a dollar down and I said, "Call
23 the Police, somebody has murdered my wife," or, "killed
24 my wife." I don't remember exactly the words. Somebody

Reggett - Cross

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1 killed my wife.

2 Q You further stated to Trooper Woodyard
3 on this occasion that upon re-entering the house, you
4 went into the bathroom, you lifted your son out of the
5 tub and carried him into the bedroom and laid him on the
6 bed; do you recall that?

7 A I told him that when he had asked me
8 what I had found in the house, the day before. I don't
9 remember telling him that in the confession.

10 Q And then you said that you untied the
11 cords from around his hands; do you remember that?

12 A No, I don't.

13 Q Then, you then said you tried to get
14 the cords off of your wife's body but the Police arrived
15 at the scene; do you recall that?

16 A No, I don't.

17 Q You further stated that you wanted to
18 appear tore up?

19 A I told him that.

20 Q But when the Police arrived, you could
21 not force yourself to show those emotions because you
22 felt too relieved and free; do you recall that?

23 A I remember the relief part. I remember
24 saying that I couldn't force myself to do anything.

Reggettz - Cross

758

1 Q You further told him the reason you
2 took your daughter from the door is your daughter liked
3 to swing, and you hung her up there so she could; do you
4 recall that?

5 A Yes, I do.

6 Q And your explanation for putting your
7 son in the tub was that the child liked to swim; do you
8 recall that?

9 A Yes, sir.

10 Q Now, sir, on the following day, you and
11 the Prosecuting Attorney, then James Roark, and others
12 went to the home?

13 A Yeah.

14 Q And at that home, you demonstrated what
15 happened; is that true?

16 A It was what they call a walk-through.
17 I was supposed to show them what I had done.

18 Q And you did a walk-through; is that
19 correct?

20 A Yes.

21 Q I'd like for you to show the jury the
22 first walk-through that you did by using the chart and
23 demonstrating just like you did -- I want you to walk
24 through, taking your wife from one room to another.

Reggett - Cross

759

1 A I don't remember all of it. The only
2 thing I remember in the walk-through is that they told
3 me that she'd been carried from this room to this room
4 (Indicating), and dropped on the floor.

5 Q Show us what you did then.

6 A I acted like I picked her up and walked
7 through the doorway and dropped her in the floor
8 (Demonstrating).

9 Q Thank you.

10 I'm handing the defendant State's Exhibit 158.
11 Would you identify that, sir?

12 A It's a pair of scissors like we had
13 back at the house.

14 Q And isn't that the same pair of
15 scissors that was found in your wife's chest?

16 A As far as I know, yes.

17 Q And on this occasion, did you
18 demonstrate for them how you used these scissors on your
19 wife?

20 A Yeah. They asked me to show them how
21 I pushed them down in her.

22 Q And you showed it to them, then, didn't
23 you?

24 A Yes, I did. Now, I'm saying I did in

Reggett - Cross

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1 the fact that they said I did, and that's the only way
2 I remember it.

3 Q I'm asking you if you showed them how
4 you placed these scissors in your wife's chest on that
5 day; is that a correct statement?

6 A Yes, I did.

7 Q Okay. Now, you also demonstrated what
8 you did to your son, too; is that correct?

9 A Yes, sir. As far as I can remember, I
10 did. I don't know for sure. I'm not for sure. The
11 thing that sticks out in my mind more than anything else
12 that happened in that house was my wife.

13 Q You don't remember the demonstration
14 that you did for your son?

15 A I think I told them I picked him up off
16 the floor and laid him in the bathtub.

17 Q You don't remember telling the State
18 that you grabbed your son around the neck as he attempted
19 to run?

20 A Yeah, I told them that.

21 Q You don't remember that you threw the
22 child face down on the floor and held him there by
23 placing your knee on his buttocks?

24 A I told them that.

Reggettz - Cross

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1 Q Okay. And then, you do not remember
2 demonstrating this?

3 A No, I don't. I just remember picking
4 him up out of the bathtub. I'm not sure that I showed
5 them how I put him in the bathtub. All I remember is
6 taking him out of the bathtub and letting him drain a
7 little bit. That's what I remember about my little boy.

8 Q And what do you remember about your
9 daughter that you demonstrated?

10 A They asked me to show them how I hung
11 her on the door, and I took the cords and like, pushed
12 them up over the door like this (Indicating), and pushed
13 the door to.

14 Q Which door?

15 A The front bedroom.

16 Q Now, sir, I'd like for you to
17 demonstrate for the jury how you showed them that you
18 used those scissors on your wife.

19 A I told them -- he said I pushed them in
20 her chest and I went like this (Indicating).

21 Q Some of the jurors couldn't see. Would
22 you move further out here, sir?

23 A (Indicating again).

24 MR. BICKLEY: No further questions.

Reggettz - Cross

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1

2

REDIRECT EXAMINATION

3

4

BY MS. LUSK:

5

6

Q You said when you lived at the Gene's

7

Motel, it was forty-five dollars a week?

8

A Yeah. I think they charged me forty-

9

five dollars a week.

10

Q Was it more expensive than that when

11

you moved into the house?

12

A No. I think she said we could have it

13

for seventy-five a month.

14

Q So, it was cheaper for you to live in

15

the house than in the motel?

16

A Oh, yes.

17

Q Do you remember having an argument with

18

Vanessa about a color television?

19

A No, I don't.

20

Q When Mr. Bickley asked you if you had

21

any of the things you wanted, he mentioned the fact that

22

you wanted a watch for Christmas.

23

A Yes, I did.

24

Q How much did that watch cost?

Reggett - Redirect

763

1 A Eight dollars is what I remember; about
2 eight dollars.

3 Q Who was the presents under your
4 Christmas tree for?

5 A All of us. There was presents for each
6 one of us.

7 Q Were there more for the rest of your
8 family members than for you?

9 A To sit and think about what was under
10 there, I don't know what all was under there, but most
11 of it was for them.

12 Q Do you specifically recall saying that
13 you wished your wife was dead?

14 A I'm sure I've told her that several
15 times. When I was arguing or something, I would say --
16 what I told her was, "I wish somebody would kill you."
17 That's what I remember telling her. "I wish somebody
18 would kill you."

19 Q What were the circumstances?

20 A I don't know. We's just arguing.

21 Q Was it true?

22 A No. Lord, no.

23 Q Did you mean it?

24 A Not from my heart, no, I did not.

Reggett - Redirect

764

1 Q Did you mean it if you said you wished
2 your son wasn't born?

3 A No, not really.

4 Q Are you sure?

5 A Positive.

6 Q The things that Mr. Bickley went
7 through in the statement that you made down at South
8 Charleston -- when you said you killed your wife, did you
9 kill your wife, Mr. Reggett?

10 A No, I did not, ma'am.

11 Q Did you kill Paul Eric?

12 A No, I did not, ma'am.

13 Q Did you kill Bernadette?

14 A No, I did not, ma'am.

15 MS. LUSK: That's all I have.

16

17 RECROSS-EXAMINATION

18

19 BY MR. BICKLEY:

20

21 Q I just have one statement or question
22 for you.

23 You stated that you didn't want your wife dead,
24 and do you recall after seeing her dead, you said, "I

Reggettz - Recross

765

1 felt free"?

2 A Yes, sir.

3 MR. BICKLEY: No further questions.

4

5 RE-REDIRECT EXAMINATION

6

7 BY MS. LUSK:

8

9 Q And then, what did you feel?

10 A I felt like I'd died. Let me clarify
11 that. He said I said it up there. I'm not saying I
12 didn't. What I told you was, I felt that as I come out
13 on the porch, all of the responsibility came off of me,
14 then I said I felt like I died. I did say I felt like
15 I was free because the responsibility had been taken off
16 of me. But then I felt like I'd died.

17 Q You felt like you had died?

18 A Yes, ma'am.

19

20 RE-RECROSS EXAMINATION

21

22 BY MR. BICKLEY:

23

24 Q Mr. Reggettz ---

Reggettz - Re-recross

766

1 A That's what I said, but I told him,
2 yes, I felt like the responsibility had been taken off
3 of me.

4 Q And you felt free?

5 A That's what I said.

6 MR. BICKLEY: That's all I have.

7 MS. LUSK: That's all we have, Judge.

8 THE COURT: Thank you, Mr. Reggettz, you may step
9 down.

10 May he be excused?

11 MR. BICKLEY: Yes, sir.

12 THE COURT: Might he be subject to recall?

13 MR. BICKLEY: Not by me.

14 MS. LUSK: I don't think so.

15 THE COURT: You want to call your next witness,
16 please?

17 MS. LUSK: Judge, this might be a good time to
18 take a break.

19 THE COURT: Folks, we're going to recess early
20 for lunch now. We're also going to start back early
21 after lunch. So, if you would come back at quarter after
22 one, we'll start the trial back up at that time.

23

24 WHEREUPON, the Court stood in the noon recess in

1 the hearing of this case.

2

3 (Back on the Record)

4

5 THE COURT: While we're waiting briefly, I'd like
6 to ask if anyone in the Courtroom is a witness, I'd like
7 to ask you to step out of the Courtroom. The spectators
8 are free to stay.

9 MR. REVERCOMB: Your Honor, the State would call
10 Sergeant Custer.

11

12 WHEREUPON, Sergeant Robert R. Custer was duly
13 sworn, and upon his oath deposed as follows:

14

15 DIRECT EXAMINATION

16

17 BY MR. REVERCOMB:

18

19 Q Would you please state your name, sir?

20 A I'm Sergeant Robert R. Custer.

21 Q Where are you employed?

22 A I'm employed at the State Police
23 Detachment in Glasgow, by the West Virginia State Police.

24 Q What is your rank there?

Custer - Direct

768

1 A I'm Sergeant and Detachment Commander
2 of the Glasgow Detachment.

3 Q How long have you been a State Trooper?

4 A Approximately twenty years.

5 Q And have you ever been a detective,
6 especially within the Department of Public Safety?

7 A Yes, the first fourteen years of my
8 service with the Department, I was involved in scuba
9 diving, and I presently have two Instructor's
10 Certifications, and one MCA in padding organizations.

11 Q What is padding organizations?

12 A A professional organization of diving
13 instructors.

14 Q Are you authorized to certify diving?

15 A Yes.

16 Q You actually teach it?

17 A Yes, I have.

18 Q You've conducted dives for the
19 Department of Public Safety?

20 A Yes, I have.

21 Q How many would you say you've conducted
22 during the years you have been a State Trooper?

23 A In excess of a hundred.

24 Q Do you also dive for pleasure?

Custer - Direct

769

1 A Yes.

2 Q What do you dive for when you dive for
3 the Department of Public Safety?

4 A We call it search and recovery diving.
5 We dive for evidence, and by evidence it is usually
6 weapons, stolen articles, vehicles, bodies.

7 Q And how do you prepare for a dive?

8 A We first check, of course, the
9 location, and the water conditions at the time of the
10 year, and the weather. We also see if there were any
11 witnesses who may have seen something being thrown into
12 the water, and also the safety factors involved in the
13 dive.

14 Q Once you've decided that it's a safe
15 dive, could you describe some of the techniques you use?

16 A Depending on the area that we're going
17 to search, if it's from the bank, we use what we call a
18 pendulum pattern, with a rope.

19 If it's in the middle of the body of water, we
20 usually use what we call a circular pattern conducted in
21 a three hundred sixty degree circular pattern with a
22 rope, under water.

23 Q Could you explain in more detail the
24 pendulum pattern?

Custer - Direct

770

1 A It normally begins from the bank where
2 a person who would know what they are doing or are
3 somewhat familiar with diving would hold a rope. We'd
4 take about a hundred foot rope and put divers on the end
5 of that rope, depending on the water visibility, and
6 would swing back and forth, searching a given area.

7 We go to one end of the search, and we usually
8 come in about five or ten feet, then we'll go to the
9 other end and continue to come in until we are satisfied
10 that we've searched that area thoroughly.

11 Q That's the pendulum search?

12 A Right.

13 Q What about the circular pattern search?

14 A We'll go out and we'll anchor boats.
15 We'll secure the anchor at the bottom of the river or
16 lake, or whatever it may be. We'll put a rope onto the
17 anchor rope and then we'll conduct a three hundred sixty
18 degree circular search.

19 These are usually made with a rope, depending on
20 our water visibility, how many guys we put on a rope.
21 We'll complete the circle, coming in about ten feet at
22 a time, then we'll leave the boat and make another
23 circular pattern.

24 Q So, you go around and around, as divers

Custer - Direct

771

1 come in, three hundred sixty degrees, do another three
2 hundred sixty, come in, and then do another three hundred
3 sixty?

4 A That's right.

5 Q Sir, if the water is muddy or murky,
6 how do you do a search?

7 A It's just really a hand search. Divers
8 will get out at the end of the rope and go hand-to-hand
9 until we can feel our hands touch. We'll hold one hand
10 on the rope and we'll take our other hand and move it
11 along the bottom of the water, and search with our hand.
12 We cannot see at all.

13 Q I'd like to call your attention to
14 December 13, 1979. Did you conduct a search here in
15 Charleston?

16 A Yes, we did.

17 Q Which bridge was that?

18 A It was the Virginia Street bridge, it's
19 called, from the I-64 span, from the Oakwood to the
20 Virginia Street exit.

21 Q Do you own any rifles, yourself?

22 A Yes, I do.

23 Q Do you have a .22 caliber rifle?

24 A Yes, I do.

Custer - Direct

772

1 Q You are familiar with that type of
2 rifle?

3 A Yes, I am.

4 Q How much would a .22 rifle weigh?

5 A About five or six pounds.

6 Q Going back to this dive you conducted,
7 was that dive in December of '79, some time after
8 December 13th?

9 A Yes, it was.

10 Q What were you searching for?

11 A We were searching for a rifle.

12 Q A .22 rifle?

13 A Yes.

14 Q How many divers or how many people were
15 involved in that search?

16 A Counting the people in the boats that
17 were assisting us, I would say about fourteen or fifteen.

18 Q How many divers were down in the water?

19 A We had about ten divers in the water.

20 Q How long did the dive last that first
21 day?

22 A It lasted almost eight hours.

23 Q Did each of those ten divers stay in
24 the water that long?

Custer - Direct

773

1 A Yes, they were.

2 Q How many divers did you have the second
3 day?

4 A There were just three of us.

5 Q How long did it last that second day?

6 A About eight hours.

7 Q The divers, again, were under water for
8 at least that long?

9 A Yes.

10 Q Could you tell us a little bit about
11 the Kanawha River area, or the Kanawha River in that
12 area? What it looks like down there?

13 A The area of the channel, where the
14 normal boat traffic or the barges that you seen going
15 down the river, travel, is about ten to fifteen feet in
16 depth in normal water conditions.

17 It's a hard, course, sandy bottom with very
18 little debris on the bottom of the river.

19 Q It's not littered like one would think?

20 A No, it isn't.

21 Q Why is that?

22 A The barges and the normal current will
23 have a tendency to wash the things like pop cans and
24 other litter to the sides.

Custer - Direct

774

1 Q Depending on the weight?

2 A Right.

3 Q You say that bottom is hard or soft?

4 A It is soft.

5 Q Where does the channel begin in
6 relation to the bank?

7 A Normally, from the bank, if you walk
8 out from the bank into the river, it will drop off
9 sharply at about ten feet.

10 Q It drops off into the channel there?

11 A Yes, it does.

12 Q I want to recall your attention to the
13 days you dove back in '79, looking for this rifle, and
14 I would ask you to describe the water on those two days.

15 A I remember it very well, because from
16 diving into the river -- all of the diving I have done,
17 the water conditions usually aren't that good. These
18 particular days were bright, sunny days.

19 The water was in real good shape and had about
20 four or five feet visibility, which is about as good as
21 you can have in the river out here.

22 Q Had you ever seen the river conditions
23 in the Kanawha River better than that?

24 A No, I haven't.

Custer - Direct

775

1 Q Before you worked at the Department of
2 Public Safety, where did you live?

3 A I grew up in the Belle area, along the
4 Kanawha River.

5 Q You're very familiar with the Kanawha
6 River?

7 A Yes. I've been swimming in the river
8 since I've probably been about six years old.

9 Q How long have you been a diver?

10 A Now, it's been about nineteen years.

11 Q You've been diving in the Kanawha River
12 since that time?

13 A Yes, I have.

14 Q Did you use any lighting equipment that
15 day?

16 A No, we didn't need any lights. It was
17 a bright, sunny day. We wouldn't have needed lights.

18 Q Who told you where to dive for this
19 gun?

20 A I believe Trooper Smith who was
21 stationed at that time at the South Charleston
22 Detachment.

23 Q Did you know Paul Reggett at that
24 time?

Custer - Direct

776

1 A I know of him, but I didn't know him
2 personally.

3 Q Was he there to tell you where to dive?

4 A No, he wasn't.

5 Q What areas did your search cover?

6 A We began in the middle of the river
7 under the channel, near the Virginia Street and the I-64
8 bridge, and we covered several hundred yards in a north-
9 south, east-west direction from that area there in the
10 middle of the river.

11 Q A hundred yards upstream from the
12 bridge, and downstream?

13 A Yes.

14 Q When you teach dive recovery and
15 search, do you drop things in the water?

16 A Yes, I do.

17 Q Why -- for what purpose?

18 A To show if it will float, and also to
19 show how things sink to the bottom, and if they move very
20 much from where they're thrown in, if they have a
21 tendency to sink fast, or whether they just lay on the
22 bottom once you've thrown the object in.

23 Q The conditions observed on those days
24 in 1979, how far would you expect a .22 rifle to move?

Custer - Direct

777

1 A Only a matter of feet.

2 Q What is that?

3 A Because it weighs about five or six
4 pounds and it would go directly to the bottom.

5 Q If it had rained one day before this
6 search, how does that affect it?

7 A If it would have rained heavily, after
8 all of the tributaries or the hollows would empty into
9 the muddy water to it, it would, of course, be real bad
10 water conditions. But it hadn't rained that day. I
11 believe we might have had some light rain, but nothing
12 at all that would have affected the water at that time.

13 Q Did you find a rifle that day?

14 A We did not.

15 Q Either day?

16 A We did not.

17 Q Can you describe the banks' condition?

18 A They were soft and muddy and kind of
19 slick.

20 Q How far did this extend into the river?

21 A Just a matter of feet, then
22 off real sharply into the channel.

23 Q Would you narrow
24 you've recovered in your searches

Custer - Direct

778

1 A I've recovered money from bank
2 robberies; I've recovered pistols and rifles, vehicles,
3 bodies, all different kinds of evidence.

4 Q What small objects have you recovered?

5 A Probably the smallest thing that I've
6 recovered was a ring one time.

7 Q Is it as easier to find a rifle than it
8 is a pistol?

9 A Yes, it is.

10 Q Why is that?

11 A It's larger and heavier.

12 Q The conditions you've described,
13 Sergeant Custer, that existed that day, those two days
14 in December -- if the rifle had been there, would you
15 have expected to find it?

16 A Yes, I would.

17 Q Have you ever had occasion to dive for
18 an object and later find that it wasn't there in the
19 first place?

20 A Yes, I have.

21 MR. REVERCOMB: That's all I have, your Honor.

22

23

24

CROSS-EXAMINATION

Custer - Cross

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1

2 BY MR. HUFFMAN:

3

4 Q Sergeant Custer, what date did you make
5 this dive?

6 A I believe it was about the 19th or 20th
7 of December. It was just a few days before Christmas.

8 Q Why didn't you dive before then? Were
9 the river conditions such that you were unable to dive
10 before then?

11 A We go when we receive information or a
12 request from these people asking us to dive.

13 Q You've already testified on direct that
14 you didn't talk to Paul Reggettz; is that correct?

15 A That's correct.

16 Q He wasn't there to point out anything
17 to you?

18 A Right, that's correct.

19 Q If I understand your testimony on
20 direct, you went out in the Kanawha River, about a
21 hundred yards in each direction. Did you start right
22 under the bridge?

23 A No, we started back this way about a
24 hundred yards.

Custer - Cross

780

1 Q Upriver from the bridge?

2 A Right.

3 Q If we were standing on the bridge when
4 you started, did you start upriver or downriver?

5 A Back up toward the South Side bridge.

6 Q You started from a hundred yards from
7 there?

8 A From the middle of the river, we went
9 a hundred yards in each direction.

10 Q Okay. And you started how far from the
11 bridge into the channel did you start back upriver?

12 A We started around the middle of the
13 river, from bank to bank, as you would from the middle
14 of the river.

15 Q I understand where you started in
16 relation to both sides. What I'm trying to determine is
17 where did you start your search in relation to the
18 bridge, how far upriver were you?

19 A About a hundred yards.

20 Q And then you went from there a hundred
21 yards back towards the bridge, and then another hundred
22 yards back upriver?

23 A Yes.

24 Q If there had been an object in the

Custer - Cross

781

1 river that was a hundred and twenty-five yards from where
2 you started, you wouldn't have found it; is that correct?

3 A That's probably a logical assumption.

4 Q And I assume you make dives in the
5 river and there are times when you don't find things; is
6 that not correct?

7 A That's true.

8 Q And because you don't find it, that
9 doesn't necessarily mean that it wasn't there to begin
10 with?

11 A That's true.

12 MR. HUFFMAN: I don't have any further questions.

13

14 REDIRECT EXAMINATION

15

16 BY MR. REVERCOMB:

17

18 Q I want to clarify one question. You
19 said a hundred yards on each side of the bridge?

20 A Yes.

21 Q And how far in each direction?

22 A About a hundred yards.

23 MR. REVERCOMB: I have no further questions.

24 THE COURT: You may step down.

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1 Would you call your next witness, please?

2 MR. REVERCOMB: The State would call Sergeant R.
3 L. Presson.

4 JUROR NO. 2: Your Honor, this vacuum over here
5 on the steps -- someone is going to fall over that. They
6 keep stepping over it.

7 THE COURT: Thanks.

8
9 WHEREUPON, Sergeant R. L. Presson was duly sworn,
10 and upon his oath deposed as follows:

11
12 DIRECT EXAMINATION

13
14 BY MR. REVERCOMB:

15
16 Q Would you please state your name, sir?

17 A Robert L. Presson.

18 Q Where are you currently employed?

19 A By the Division of Highways, Weight
20 Enforcement Section.

21 Q Prior to that, where were you employed?

22 A With the Department of Public Safety of
23 the State of West Virginia.

24 Q How long were you a State Trooper, sir?

Presson - Direct

783

1 A Twenty-eight years.

2 Q Were you still employed in October of
3 1980?

4 A Yes, sir, I was.

5 Q Where were you stationed at that time?

6 A At the Parkersburg Detachment in Wood
7 County.

8 Q In what capacity?

9 A As a District Sergeant.

10 Q What does a District Sergeant do?

11 A He's in charge of the Troopers that are
12 assigned to that particular district.

13 Q You had more duties than just the one
14 detachment?

15 A Yes, sir. The Wood County Detachment
16 covers Wirt County and Jackson County.

17 Q You were the Trooper in charge of all
18 of those counties?

19 A Yes, sir, I was.

20 Q Now, I want to call your attention more
21 specifically to October 28th of 1980 at approximately
22 6:30 p.m. and ask you if you had occasion to see Troopers
23 Terry Williams and Mike Smith and a young man come in the
24 back of the detachment there?

Presson - Direct

784

1 A Yes, sir, I did.

2 Q Did you later learn the identity of the
3 young man who was with them?

4 A Yes, sir.

5 Q Who was that?

6 A John Moss.

7 Q Were you expecting them, Sergeant
8 Presson?

9 A No, sir.

10 Q And when did you know -- first know of
11 their presence?

12 A When I saw them come down the hallway
13 there, in the back door of the barracks.

14 Q At that time, was John Moss restrained
15 in any way?

16 A Yes, sir, he was.

17 Q How was that?

18 A He had handcuffs on the front part of
19 his body.

20 Q Would you describe his demeanor at that
21 time?

22 A He appeared to be normal.

23 Q Did there come a time when the
24 handcuffs were removed?

Presson - Direct

785

1 A Yes, sir.

2 Q When was that?

3 A A short time after coming into the
4 barracks.

5 Q His hands were free at that point?

6 A Yes, sir.

7 Q And after they brought him into the
8 barracks, what did Troopers Smith and Williams do?

9 A They advised me that they wanted to use
10 the bathrooms there at our detachment, which they did.

11 Q Where was John Moss when they went to
12 the restroom?

13 A We had him in the office there at the
14 barracks.

15 Q You say we -- who was in that office
16 with him?

17 A Myself and John Moss.

18 Q Anyone else?

19 A No, sir.

20 Q How long would you say you were with
21 him at that time?

22 A Approximately four or five minutes.

23 Q During that time, did you have any
24 conversation with him at all?

Presson - Direct

786

1 A Yes, sir, I did.

2 Q What about?

3 A I asked John where he was from and he
4 said St. Albans. And I asked him if he knew a couple of
5 my friends that I went to college with that lived in the
6 St. Albans area and he said he did not.

7 Q During the time you were alone with him
8 in the room, did he complain of any mistreatment at the
9 hands of the Troopers?

10 A No, sir, he didn't.

11 Q Did you notice anything unusual about
12 his appearance?

13 A No, sir.

14 Q Any bruises?

15 A No, sir.

16 Q Marks on his body?

17 A No, sir.

18 Q You did observe his physical
19 appearance?

20 A Yes, sir, I did.

21 Q And this office you and John Moss were
22 in, where in relation to the restroom was it?

23 A Directly across the hall.

24 Q And would you describe this office for

Presson - Direct

787

1 us?

2 A It's a normal size office. There's a
3 couple of desks in there and three or four chairs. It's
4 more of a squad room for the Troopers to use.

5 Q That's where they write their reports
6 and such?

7 A Yes, sir.

8 Q Is that your office?

9 A No, sir, it's the Troopers' office.

10 Q Did Mr. Moss, at the time you saw him,
11 appear to be in any pain or discomfort?

12 A No, sir.

13 Q When Terry -- or Troopers Williams and
14 Smith came back from the restroom, was Mr. Moss allowed
15 to use the restroom?

16 A Yes, sir, he was.

17 Q Did the Troopers ask you for any
18 supplies at that time?

19 A Yes, sir. They needed some legal pads.

20 Q Are you familiar with DPS Form 79?

21 A Sir?

22 Q Are you familiar with what's called DPS
23 Form 79?

24 A Yes, sir, I am.

Presson - Direct

788

1 Q What is that?

2 A That's the rights of the individual,
3 commonly called the Miranda Warning.

4 Q Did you have some of those forms in
5 your office?

6 A Yes, sir, I did.

7 Q And they asked for them?

8 A Yes, they did.

9 Q What did Trooper Smith and Trooper
10 Williams -- did they ask for office space at that time?

11 A Right. They asked me if they could use
12 that office -- they needed to talk to John, and I told
13 them they could.

14 Q And they went into that office with
15 John?

16 A Yes.

17 Q Where there any breaks taken when they
18 were in that office; do you know?

19 A I believe a short time after they came
20 there, we had something to eat there in the office, some
21 sandwiches.

22 Q Some sandwiches. Do you know where
23 that food came from?

24 A No, sir. I sent one of the girls that

Presson -- Direct

789

1 works there in our office out to get sandwiches.

2 Q And she brought food back?

3 A Yes, sir, she did.

4 Q Did you eat with them?

5 A Yes, sir, I did.

6 Q Did John Moss have food and drink?

7 A Yes, sir.

8 Q Did there come a time that you advised

9 John Moss of his rights?

10 A Later in the evening.

11 Q Do you recall what time that was?

12 A Shortly after 9:00 o'clock, I believe.

13 Q Prior to that, had Trooper Williams and

14 Trooper Smith asked for any further supplies?

15 A They needed a blank tape.

16 Q For what purpose?

17 A I guess, during the interview of John

18 Moss they wanted to tape the conversation.

19 Q Were you able to find a blank tape?

20 A No, sir.

21 Q What kind of tape did you end up

22 finding?

23 A One that had partially been used.

24 Q And prior to the taking of that

Presson - Direct

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1 statement from Mr. Moss, who read him his rights?

2 A I did.

3 Q Sergeant Presson, I'm going to show you
4 what has been marked for identification purposes as
5 State's Exhibit 93. I'd ask you to examine that.

6 Can you tell us what that is?

7 A It's a Rights Form.

8 Q Is that the Rights Form that you read
9 John Moss his rights from that evening?

10 A Yes, sir, it is.

11 Q And how do you know that?

12 A It has my signature at the bottom of
13 the form, there, plus my initials.

14 Q What is the time and date on that form?

15 A At the time on the form, you have the
16 time of 9:22 p.m., Eastern Standard Time.

17 Q What about the date?

18 A And the date is October 28.

19 Q Now, would you read those rights to the
20 jury and the Court here today as you read them to John
21 Moss back in October of 1980?

22 A All right. On the Rights Form it says:
23 "Before we ask you any questions, you must
24 understand your rights. You have the right to remain

Presson - Direct

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1 silent, and anything you say can be used against you in
2 Court. You have the right to talk to a lawyer for advice
3 before we ask you any questions and to have him with you
4 during questioning. If you cannot afford a lawyer, one
5 will be appointed for you for any questioning, if you
6 wish. If you decide to answer questions without a lawyer
7 present, you will still have the right to stop answering
8 at any time. You also have the right to stop answering
9 at any time until you talk to a lawyer."

10 And below this, there is a Waiver of Rights. It
11 says:

12 "I have had this statement of rights read to me
13 and I understand what my rights are. I am willing to
14 make a statement and answer questions. I do not want a
15 lawyer at this time. I understand and know what I am
16 doing. No promises or threats have been made to me and
17 no pressure or coercion of any kind has been used against
18 me."

19 And below that it is signed: "John Moss, III."

20 Q Who witnessed his signature?

21 A Witness: Sgt. R. L. Presson, Member of
22 the Department of Public Safety, at 9:28 p.m., and also
23 a Terry Williams, Member of the Department of Public
24 Safety, 9:28 p.m.

Presson - Direct

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1 Q And as you read his rights to him, or
2 afterwards, did Mr. Moss indicate to you that he
3 understood his rights?

4 A Yes, sir, he did.

5 Q Now, the jury has already heard the
6 tape-recorded confession of Mr. Moss. Does your voice
7 appear anywhere on that tape?

8 A I am in the very first part of the
9 tape. I talked to John there on the tape.

10 Q For what purpose?

11 A To make sure the tape was working
12 right, and, you know, basically, that was about it.

13 Q Is it also true, in fact, that you
14 advised him of his rights?

15 A Yeah, I advised him that he had
16 something to eat with us.

17 Q Did you ask him any questions about
18 these murders?

19 A No, sir, I didn't.

20 Q After your part on the tape, after you
21 made sure that he had been advised of his rights, where
22 did you go?

23 A I left the office and went back to my
24 office.

Presson - Direct

793

1 Q And who was with John Moss at that
2 time?

3 A Terry Williams.

4 Q Mike Smith wasn't in there?

5 A No, sir, I don't believe so.

6 Q Did there come an occasion later in the
7 evening when Trooper Williams and Smith left your
8 detachment?

9 A Yes, sir.

10 Q Do you know where they were going?

11 A They said they was going up into Ohio.

12 Q Do you know what time that was?

13 A In the neighborhood of 11:00 o'clock.

14 Q Where was John Moss when they left to
15 go to Ohio?

16 A He was in the office there at the
17 Parkersburg Detachment.

18 Q He was with you?

19 A Yes, sir.

20 Q He was in your presence after Troopers
21 Williams and Smith left?

22 A Yes, sir, John was.

23 Q Did you notice anything at that point
24 unusual about his physical appearance?

Presson - Direct

794

1 A No, sir.

2 Q Did you notice any marks or bruises on
3 him?

4 A No, sir.

5 Q Did he make any complaints to you about
6 his treatment by the Troopers?

7 A No, sir, he didn't.

8 Q Did he seem to be feeling any
9 discomfort or pain?

10 A No, sir.

11 Q After the Troopers left to go to Ohio,
12 why was John left with you -- for what purpose?

13 A We made arrangements to relay John back
14 down to the Kanawha County Jail.

15 Q And how was that accomplished?

16 A We set up a relay. A Trooper from
17 Parkersburg took him down into Jackson County, and I
18 believe a Trooper from Kanawha County met them up on
19 I-77 there in Jackson County.

20 Q I believe you testified that -- is that
21 the man (Indicating) that you testified being at your
22 detachment on October 28, 1980?

23 A Repeat the question, Steve. I didn't
24 hear you.

Presson - Direct

795

1 Q The man you testified as being in the
2 custody of Troopers Williams and Smith on October 28, 1980
3 -- do you see him here in the Courtroom?

4 A Yes, sir, I do.

5 Q Would you please point him out?

6 A He's the individual at counsel table in
7 the maroon blazer.

8 MR. REVERCOMB: Let the record reflect that he
9 has indicated the defendant, your Honor.

10 That's all I have.

11

12 CROSS-EXAMINATION

13

14 BY MR. HUFFMAN:

15

16 Q Sergeant Presson, the DPS Form that you
17 just testified to, that you actually witnessed, that one
18 was signed at 9:22, right before the taped statement was
19 taken; is that correct?

20 A Yes, sir.

21 Q And at that time, that wasn't the first
22 time that Mr. Moss had been questioned, when he arrived
23 at the detachment; is that correct?

24 A I couldn't answer that, sir.

Presson - Cross

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1 Q He had actually been questioned as
2 early as ten minutes to seven that evening; do you recall
3 that?

4 A No, sir, I wasn't present when that
5 occurred -- if it did occur.

6 Q But you were present when they arrived
7 at the detachment; weren't you?

8 A Yes, sir.

9 Q What time was that?

10 A In the neighborhood of 6:30.

11 Q You weren't in there at any time when
12 he was being questioned then, prior to the taped
13 questioning that took place at 9:30 then, is that
14 correct?

15 A I was not in the room.

16 Q So, you weren't present at any time
17 when he may have been struck by Trooper Smith, then; were
18 you?

19 A No, sir.

20 Q You didn't observe him being mistreated
21 by the Troopers; is that correct?

22 A No, sir.

23 Q You didn't observe him being struck
24 between the legs by Trooper Smith when he exited the

Presson - Cross

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1 patrol car when the arrived; did you?

2 A No, sir.

3 Q You didn't participate in any striking
4 or abuse or intimidation of Mr. Moss; is that correct?

5 A Yes, sir.

6 Q But you weren't there the entire time
7 he was questioned; were you?

8 A No, sir.

9 Q How far is it from the Parkersburg
10 Detachment to Charleston; do you know?

11 A Seventy-seven miles, approximately
12 seventy-seven miles.

13 Q About an hour and fifteen minutes
14 worth of driving time?

15 A About that.

16 Q You testified that you didn't see any
17 marks on Mr. Moss; is that correct?

18 A Yes, sir.

19 Q You wouldn't have been able to see any
20 marks that were under his clothing; would you?

21 A No, sir.

22 MR. HUFFMAN: No further questions, Judge.

23

24 REDIRECT EXAMINATION

Presson - Redirect

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1

2 BY MR. REVERCOMB:

3

4 Q One final question. During the time
5 you weren't in the room, were you in the detachment that
6 night?

7 A I was there all night.

8 Q Did you hear any ruckus or riot in that
9 room?

10 A No.

11 Q Any groans or moans?

12 A No.

13 Q Any furniture turning over or anything
14 like that?

15 A No.

16 MR. REVERCOMB: That's all I have.

17 MR. HUFFMAN: No additional questions.

18 THE COURT: Thank you, Mr. Presson. You may step
19 down.

20 May he be excused?

21 MR. REVERCOMB: Yes, thank you.

22 MR. BICKLEY: Yes.

23 THE COURT: Will the State call your next
24 witness, please?

799

1 While the next witness is coming in, would you
2 all step up here for a second?

3

4 WHEREUPON, a bench conference was had, which was
5 off-the-record.

6

7 (Back on this Record)

8

9 WHEREUPON, Irvin Sopher, M.D., was duly sworn,
10 and upon his oath, deposed as follows:

11

12 DIRECT EXAMINATION

13

14 BY MS. LUSK:

15

16 Q Would you state your name, please?

17 A Irvin M. Sopher, that's spelled
18 S-o-p-h-e-r.

19 Q Are you employed?

20 A Yes.

21 Q By whom?

22 A By the Department of Health, State of
23 West Virginia.

24 Q In what capacity?

Sopher - Direct

800

1 A In the capacity as Chief Medical
2 Examiner of the State of West Virginia.

3 Q Do you hold any college degrees?

4 A Yes, ma'am.

5 Q What are they?

6 MR. BICKLEY: Your Honor, Dr. Sopher's
7 qualifications are well known in West Virginia. In fact,
8 Dr. Sopher, the Medical Examiner, is known all over the
9 United States.

10 We'll waive his qualifications.

11

12 BY MS. LUSK:

13

14 Q Are you a physician?

15 A Yes, ma'am.

16 Q You hold a medical degree?

17 A That's correct.

18 Q And what other degrees do you hold?

19 A I hold a Bachelor of Science degree
20 from the University of Maryland, 1959 and a Doctor of
21 Dental Surgery degree, 1962 from the University of
22 Maryland School of Dentistry.

23 Q Does that mean that you are dentist,
24 then -- a physician?

Sopher - Direct

801

1 A That's correct. But I practice
2 medicine.

3 Q What is a forensic pathologist?

4 A A forensic pathologist is a
5 subspecialty of medicine and the primary responsibility
6 of this specialty is what one calls the medical/legal
7 investigation of death.

8 That is -- in medicine, there are obviously many
9 specialties. One has a specialist for the heart, for the
10 kidneys, for any system of your body, as well as general
11 family practitioners and general practitioners. And
12 there is a specialty known as forensic pathology which
13 deals with the medical/legal investigation of death. It
14 is a subspecialty of the general hospital area of
15 pathology, and the responsibility of the forensic
16 pathologist is primarily autopsy examinations and
17 studies. That's on persons who die as a result of
18 homicide, accident, suicide, or what in the final
19 analysis may be an unattended natural death -- that is,
20 a death due to a heart attack but there was no witness
21 present and the person had never seen a physician.

22 There is a subspecialty of forensic pathology
23 that involves five years of training beyond the medical
24 school, and requires Board Certification by examination

Sopher - Direct

802

1 in the area of medical/legal death investigation.

2 A forensic pathologist also becomes involved in
3 certain cases, depending on the circumstances, with the
4 scene of death, perhaps with a deceased individual at
5 the scene of death, and perhaps with evidence at the
6 scene of death such as blood splatter patterns in an
7 attempt to reconstruct what may have occurred at the time
8 the person died.

9 Q Are you a forensic pathologist?

10 A Yes, I am.

11 Q In your capacity as the Chief Medical
12 Examiner for the State of West Virginia, what do you do?

13 A Well, my primary responsibility is that
14 of practicing the specialty of forensic pathology; that
15 is, the performance of autopsy examinations as mandated
16 by the Medical Examiner Law of the State of West
17 Virginia, and I don't think it's surprises anyone that
18 certain modes of dying and certain types of death require
19 investigation by a State agency; that is, by the Medical
20 Examiner Law of the State. And specifically, that
21 specifies that any death due to a homicide, accident, or
22 suicide, or what we call an unattended natural death or
23 a death with suspicions of violence, must be investigated
24 by the Medical Examiner system of this State.

Sopher - Direct

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1 So, as a forensic pathologist and as the Chief
2 Medical Examiner of the State system, my primary
3 responsibility is the performance of my medical
4 specialty, and that is the autopsy examinations,
5 assisting, perhaps, law enforcement in closure of a case,
6 and then testifying in a legal forum, in a Courtroom or
7 in another legal setting as we have here today, regarding
8 the findings of any particular case.

9 Q How long have you been the Chief
10 Medical Examiner?

11 A Fifteen years.

12 Q Was that the inception of the Medical
13 Examiner's office?

14 A That's correct. For the State of West
15 Virginia.

16 Q What is an autopsy?

17 A An autopsy examination is really an
18 extension of basic surgical type operations which are
19 performed, of course, upon the human body, by instruments
20 used or surgical type instruments. And various incisions
21 are made upon the body so as to enable the pathologist
22 to examine all of the internal organs of the body and all
23 of the tissues of the body, and by such examination to
24 arrive at certain conclusions regarding the findings

Sopher - Direct

804

1 which are present. That is, is heart disease present,
2 is kidney disease present, are there any injuries
3 present, and if so, what would be the origin of these
4 injuries. What's the identification of the body upon
5 it's dealing with the skeleton, for instance. How long
6 has a person been dead, if that becomes a question in any
7 particular case.

8 So, these are the primary areas of the autopsy
9 examinations.

10 Q Do you actually examine internal organs
11 of a person?

12 A That is correct.

13 Q One by one?

14 A One by one, or sometimes two by two.
15 But at any rate, both by naked eye examination and by the
16 microscope, if such applies, in a particular case. It
17 depends on each case as to what is specifically required.

18 Q In your capacity as Chief Medical
19 Examiner, were you called to Chesapeake Avenue in St.
20 Albans on December 13, 1979?

21 A That is correct.

22 Q Did you observe three bodies; those of
23 Vanessa Reggett, Paul Eric Reggett, and Bernadette
24 Reggett?

Sopher - Direct

805

1 A That is correct, yes.

2 Q Did you view those bodies before they
3 were moved to the Medical Examiner's office?

4 A Yes, I did.

5 Q Now, in your observation of Vanessa
6 Reggett, did you find a cord around her neck?

7 A I believe at the time I first saw the
8 body of Vanessa Reggett, she was lying upon the floor
9 next to a door, and my recollection at this point is that
10 a pair of electric cords were present, adjacent to the
11 body, that is, around her head and neck region. I don't
12 specifically recall that either cord, at the time that
13 I saw her body, was in position around her body.

14 But my recollection is that they were present
15 next to her head, especially a brown cord, which was not
16 secured to the adjacent door, as was a white electric
17 cord.

18 Q Which was secured to the door?

19 A Which was not only secured to the door,
20 but was not easily removed. As I recall, the white
21 electrical extension cord had been wedged through a
22 defect in the door where the knob system was previously
23 in existence. This had been shoved through the door and
24 could not easily be removed. It was difficult to pull

Sopher - Direct

806

1 it back through because the cubed tab at the opposite end
2 was preventing it from coming through the defect in the
3 door.

4 Q And the cord actually had to be cut to
5 remove it; is that correct?

6 A That's correct.

7 Q Did you take with you at that time the
8 white cord which had been around her neck; in other
9 words, not the part that remained on the door, as well
10 as the brown cord?

11 A That's correct.

12 Q Let me hand you at this time, Doctor,
13 State's Exhibit 110-A and 111, and ask you if you would
14 examine those two exhibits.

15 Are those the two cords that you took with you on
16 December 13, 1979?

17 A That's correct. And these were given
18 ultimately to Trooper Williams, my notes indicate.

19 Q Now, that would have been on December
20 17, 1979?

21 A On December 17, 1979, yes.

22 Q During the time you held those two
23 cords, Dr. Sopher, did you make any alterations or
24 changes to them?

Sopher - Direct

807

1 A No, no.

2 Q Now, just from your view, before any of
3 the bodies were moved, particularly of Vanessa Reggett, ~~tz~~,
4 were there any apparent injuries on her?

5 A Yes, there were several apparent
6 injuries.

7 Q I'm going to place upon the witness
8 stand State's Exhibit No. 40, which is a photograph, Dr.
9 Sopher, and I'd like to ask you what injuries were
10 apparent, just from your visual examination?

11 A It was obvious, actually from a
12 distance, from the outset that the body of Mrs. Reggett, ~~tz~~,
13 which was reclined upon her right side upon the floor and
14 adjacent to the door from which the white electric cord
15 was secured, had a scissor -- a pair of scissors which
16 was embedded in her chest. That was rather obvious, when
17 one even glanced at the body.

18 Another obvious change of the body was that the
19 face showed a very dark bluish, purplish discoloration.
20 Furthermore, just a superficial look of the outside of
21 the neck revealed that she had a pattern of injury about
22 her that resulted from what one sees, from what we call
23 ligature strangulation.

24 Q Can you see that strangulation on

Sopher - Direct

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1 State's Exhibit 40?

2 A Not very clearly, but one can see the
3 marked bluish, purplish coloration of the face in State's
4 Exhibit 40.

5 Q What does that consist of?

6 A It actually consists of what we call
7 suffusion. That is caused by -- or it's spelled
8 s-u-f-f-u-s-i-o-n -- suffusion, or a backup of blood
9 into the skin of the face, in this particular case, which
10 occurs actually about any part of the body.

11 If one tightly ties a tourniquet -- a tourniquet-
12 like material around a part of the body -- that is to say
13 if one were to take a rope or a tourniquet as is used in
14 venipuncture and the blood bank, for example, if you use
15 that or leave that on your arm long enough, the distal -
16 - what we call the distal aspect of your extremity, that
17 is, the area below the tourniquet will turn blue. And
18 if you leave it on long enough, eventually, your whole
19 limb may drop off.

20 So, this is what we call or what we mean by
21 suffusion. It's caused by a constriction of the vein
22 itself of that part of the body, whether it be the veins
23 draining the hand, in the case of a tourniquet, or a
24 ligature around the hand, or in the case of an extremity

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1 the vein bringing the blood back up your hand, up your
2 extremity to your heart.

3 So, that's the cause of this condition, and of
4 course, what is also associated with this constriction
5 phenomenon is small little hemorrhages which may develop
6 in the skin or in the whites of the eyes or in the inner
7 aspects of the eyelids. These are classic findings noted
8 in ligature strangulation.

9 Q Did you make such observation at the
10 scene?

11 A That's correct.

12 Q Now, you started to tell the jury what
13 a ligature is?

14 A A ligature, by definition, is any
15 flexible object or item that would be used to secure
16 about a part of the body -- a belt, for example, is a
17 ligature about the waist. When we're talking about
18 semantics or definition here, of specific reference to
19 the neck, it's any type of object which is flexible and
20 long enough so that it secures the neck in a tight
21 manner, and that would be a ligature.

22 Common ligatures are ropes, wires, rolled up
23 stockings, rubber tubing, any of those items which can
24 be tightly secured about the neck would be regarded as

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1 a ligature.

2 Q Does a ligature generally leave marks?

3 A Generally speaking, a ligature would
4 leave marks, yes, ma'am.

5 Q At the scene of death, were you able to
6 observe marks consistent with a ligature on the body of
7 Vanessa Reggett?

8 A Yes, ma'am.

9 Q Did you also observe a certain head
10 injury to Vanessa Reggett at the scene?

11 A Yes, ma'am.

12 Q Where as that injury, Doctor?

13 A The injury that was readily obvious at
14 the scene actually was a pair of injuries represented by
15 two parallel lacerations which are open gashes of the
16 skin. These were positioned in the left frontal hairline
17 area; that is, at the approximate junction of the left
18 upper forehead with the left hairline. And these two
19 lacerations which were roughly an inch to an inch and a
20 half in length represented what we call in forensic
21 pathology as a patterned injury; that is, patterned
22 e-d injury, in that each of these lacerations were
23 perfectly parallel to each other and would represent a
24 blow from a solitary impact, with intact normal skin

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1 existing between these pairs of lacerations which would
2 present as railroad track trails, if you will. That is,
3 straight lines perfectly parallel to each other.

4 Q So, it was your opinion at the scene
5 that those two injuries were caused by one blow?

6 A That is correct; and from an object
7 which would result in a parallel type laceration.

8 Q Now, did you in fact, make a comparison
9 of that injury with an object that was present at the
10 scene?

11 A Yes, ma'am.

12 Q Let me hand you what has been marked as
13 State's Exhibit 103 and ask you to examine this exhibit.

14 Do you recognize it?

15 A Yes, ma'am.

16 Q How?

17 A This represents the segments of a
18 handgun which were found, as I recall, in what I refer
19 to as the second bedroom, or the bedroom wherein the body
20 of Mrs. Reggett was found. And this was found in that
21 approximate area.

22 Q Can you show the area -- the jury the
23 portion of the gun you are holding?

24 A Actually, what we are dealing with here

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1 is the grip area of the weapon which is now disassembled.
2 Actually, as I recall at the scene, it was found in
3 pieces and what one has when this is intact, it's a pair
4 of plastic grips around a metal frame which has been
5 broken, in keeping with the metal frame, which would
6 intrude from the plastic grip handle, approximately one-
7 half inch or nine-sixteenths of an inch. That's a
8 separation measured on the forehead skin of Mrs.
9 Reggett, wherein the pair of two parallel laceration
10 injuries was noted. And if one were to take an intact
11 weapon grip, as we have here, and strike a forehead of
12 an individual, one would see a pair of parallel
13 lacerations which would be identical to the injury noted
14 on Mrs. Reggett.

15 Q Did you actually take the metal center
16 portion and compare it to the injury on Mrs. Reggett's
17 head?

18 A That is correct.

19 Q And what was your finding?

20 A That it matched with the parallel
21 pattern and the separation between the two parallel
22 lacerations of the intact skin -- that is what one would
23 see if one were struck with a weapon of this nature.

24 Of course, there is nothing to say that that

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1 injury had to be absolutely from this weapon, but it's
2 very consistent with this weapon and the fact that you
3 have the broken weapon at the scene which suggests that
4 it was used to commit those injuries.

5 Q Did you later photograph that injury on
6 Mrs. Reggett's head?

7 A Yes, I did.

8 Q In order to take the photograph, did
9 you have to shave part of her hair?

10 A Yes, ma'am.

11 Q Let me hand you State's Exhibit 130 and
12 ask you if you recognize that?

13 A Yes, ma'am.

14 Q Could you describe to the jury what
15 that photograph depicts?

16 A This photograph depicts a pair of
17 parallel lacerations that we've just been describing.
18 The scalp hair adjacent to the lacerations has been
19 shaven by myself at the time of the examination, so as
20 to obtain proper photography of the injury.

21 That is, we would shave the hair so as to have a
22 clear photograph of the injury, as evidenced -- and, of
23 course, what the photograph shows, are a pair of parallel
24 lacerations, or gashes, in the skin from what we call a

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1 blunt force trauma. And these are separated by a
2 distance of nine-sixteenths of an inch from each other,
3 which is the width of the metal portion of the butt area
4 of the grip portion of the gun.

5 Q Is State's Exhibit 130 a black and
6 white photograph?

7 A Yes, ma'am.

8 Q Does that truly and accurately depict
9 the injury as you photographed it that day?

10 A Yes, it does.

11 MS. LUSK: Your Honor, at this time, I would move
12 the admission of State's Exhibit No. 130, and ask if Dr.
13 Sopher be permitted to show it to the jury.

14 THE COURT: It will be admitted.

15

16 BY MS. LUSK:

17

18 Q Would you show it to the jury, Dr.
19 Sopher?

20 A Yes, ma'am.

21 This photograph that we're discussing and is
22 taken from the left front side of the woman's head so
23 that you can actually see a portion of the left eyebrow
24 there and the lower portion of the eyebrow, both. This

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1 will also show the outer aspect of the left forehead.
2 What you see are two dark lines. The lower one of which
3 is a gaping wound, as lacerations will gape after the
4 skin tension is released; that is, when one gets a gash
5 of this nature, they gape open and you see two parallel
6 railroad track-like lines, and this is what we have been
7 describing. And in between, of course, is the intact
8 area of normal skin, and the pattern of a blow as from
9 the weapon which we have been describing would be
10 identical to that type of pattern, with the metallic
11 edges of the metallic grip which would come back to the
12 skin, and I guess, the underlying skull, and result in
13 the splits in the skin with a normal impact.

14 Q Thank you.

15 While you were still at the scene, Dr. Sopher,
16 did you have occasion to take the temperature of Vanessa
17 Reggettz?

18 A Yes, ma'am, I did.

19 Q What was the purpose of that?

20 A The purpose of the temperature -- and
21 this was taken rectally -- was that the post-mortem
22 temperature of a body is of some assistance in evaluating
23 the approximate time since that person died.

24 Q What time did you take her temperature?

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1 A At 3:30 p.m. on the afternoon of
2 December 13, 1979.

3 Q What was her temperature?

4 A The rectal temperature of Mrs. Reggett
5 was eighty-two degrees fahrenheit.

6 Q Do you have a formula that you use?

7 A Yes, ma'am.

8 Q What is that formula?

9 A Generally speaking, there is a lot of
10 variation in the amount of heat loss from a body after
11 death. Generally speaking, a body will lose one and a
12 half degrees fahrenheit per hour after death. There is
13 a variation in that.

14 There is also, initially, about a two-hour
15 plateau where little heat is lost, and that's basically
16 the formula for heat loss post-mortem. But there is much
17 variation in that, and as a matter of fact, many forensic
18 pathologists don't even take body temperatures post-
19 mortem because they don't feel that they are reliable
20 enough to be of any assistance in establishing the time
21 of death. And I don't agree with that.

22 Q Is this formula for a person of average
23 weight?

24 A That's correct.

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1 I think -- for just a moment, to lay a
2 background, the heat loss post-mortem, one has to
3 understand that any substance, whether it be a human body
4 or whether it be a heating pad, of course -- once the
5 heat source of that object is diminished, whether it be
6 death whereby your body temperature begins to drop after
7 a bit, because your body, in itself, is like a factory,
8 and we all have a normal temperature during life. I
9 mean, there is some variation of that, as well.

10 But generally, in life, the healthy person will
11 have a one hundred degree fahrenheit rectal temperature,
12 and ninety-eight point six by mouth. Some people in
13 life, even though they are healthy, they run a little
14 above that or below that. But once a person is deceased,
15 that body now representing a reservoir of heat will lose
16 heat to the environment, just like your heating pad or
17 your frying pan, which eventually cools off after the
18 heat source is gone.

19 Now, the ability of the body to lose heat to the
20 environment depends upon many factors. Obviously, if the
21 body is clothed or unclothed, that's a factor, because
22 if you wear clothing, that insulates the body. And one
23 has a diminished loss of body heat if you have a fully
24 clothed body, for instance, as opposed to a nude body.

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1 An obese body or a large-statured individual who
2 had much body fat under the skin, or much muscle mass,
3 will retain heat longer and will cook at a slower rate
4 than a skinny, thin person, for example, irrespective of
5 the clothing.

6 The actual environmental temperature is important
7 as to how fast a body will lose heat. I figure that as
8 a forensic pathologist, I use one and a half degrees
9 fahrenheit, based upon a room temperature of roughly
10 seventy to seventy-two degrees. If it's much colder than
11 that, then your body loses heat much more quickly.

12 So, there are many, many factors involved in the
13 heat loss from the body, even an individual, a deceased
14 individual, who is doubled upon him or herself will not
15 lose heat as rapidly as a body which is out-stretched in
16 a spread-eagle manner.

17 So, that's the basis upon which -- and also, at
18 post-mortem, I found the rectal temperatures were
19 helpful, personally speaking, but as I've stated, other
20 forensic pathologists do not place much reliability upon
21 body temperature, post-mortem, as a means of estimating
22 how long a person has been dead. There are just too many
23 variables involved, as is the whole question of time of
24 death.

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1 Q Is the person's body temperature likely
2 to drop below room temperature?

3 A That cannot happen, and as the
4 environment is warmer or is cooler than the body, the
5 body will gain heat, post-mortem.

6 That is, if a person is deceased in a room that
7 happens to be a hundred and four degrees, that
8 temperature at death of a hundred degrees will rise very
9 slowly over a number of hours until it, itself, will
10 obtain a heat of a hundred and four degrees.

11 Conversely, the body, generally speaking, will
12 cool down to the temperature of the environment in about
13 a twenty-two to twenty-four hour period. So, that if I
14 were to expire right now, in this room, and you observed
15 me for twenty-four hours, at about that time, twenty-two
16 to twenty-four hours later, my rectal temperature will
17 be about the same as this room temperature.

18 Q Were you able to observe and make
19 certain findings regarding the rigor mortis of Vanessa
20 Reggett?

21 A That is correct.

22 Q What is rigor mortis?

23 A Rigor mortis is a phenomenon that
24 affects the deceased individual, and actually, medical

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1 people and forensic pathologists are unsure as to what
2 causes this phenomenon, but what it results in is that
3 there is a stiffening of the muscles of the body so that
4 your arms and legs and jaws and neck become stiff and
5 rigid, and in well-muscled individuals such as a
6 construction worker, for example, that stiffening can be
7 so severe after several hours that I myself may have
8 trouble straightening out, for example, an upper
9 extremity which has been bent or flexed at the time of
10 death.

11 Q You say upper extremity, do you mean an
12 arm?

13 A An arm, that's correct. Or for that
14 matter, a knee-joint. So this change occurs after death
15 in the muscles. It has to do with the muscle chemistry
16 in that the muscles stiffen. They will not move -- your
17 extremity, your jaws, or your neck -- they will freeze
18 you, so-to-speak, in the position that you resided at the
19 time you died. So, that's what rigor mortis is.

20 Q Approximately how long after death does
21 rigor mortis begin?

22 A Rigor mortis begins, if you follow the
23 classic textbook description of it, it begins in certain
24 areas of the body ahead of others. So that typically

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1 speaking, the jaws and neck of a deceased individual will
2 be markedly stiff at about two to three hours after
3 death, so that if we have, in the classic sense, now, one
4 of the problems here is that there is not a variation,
5 but the classic picture of a deceased individual, for
6 example, two to three hours after death would be that the
7 jaws would not be able to be moved by an examiner at the
8 scene, and that the neck would already be stiff.

9 So, if one puts the hand of the examiner behind
10 the head, you would have difficulty in moving the head.
11 And in contrast, the arms and legs will be very flaccid
12 or floppy. You could move them with no problem because
13 as the time after death proceeds, so that when you
14 approach five or six hours after death and examine the
15 same body, in the classic presentation, now, of rigor
16 mortis, r-i-g-o-r, rigor, and mortis, m-o-r-t-i-s, means
17 death, rigor of death. If you observed the body at five
18 or six hours after death, you would still have the jaws
19 and the neck stiff, but in addition now, the upper
20 extremities will be stiff. You will have difficulty in
21 moving the arm or the elbow joint in either direction.
22 And ultimately, the same procedure extends to involve the
23 lower extremities at about eight to ten, or maybe twelve,
24 hours after death, at which point the entire body is

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1 markedly stiff, and then that stiffness, at standard room
2 temperature, may last for an additional twelve or twenty-
3 four hours, even, before the process begins to break
4 down.

5 Q What happens when it breaks down?

6 A Well, then the muscles relax again, and
7 in the classic textbook presentation, this relaxation
8 starts in the muscles of the jaw and the neck first, then
9 the upper extremities, and then the lower extremities.
10 But that doesn't occur until maybe twenty-four or thirty-
11 six hours after death, after which time the other changes
12 in the body occur as well, because the body is no longer
13 fresh.

14 So, briefly, that is what rigor mortis is.

15 Q Did you note the rigor mortis of
16 Vanessa Reggettz at the scene?

17 A Yes, ma'am.

18 Q What was it?

19 A The rigor mortis of Vanessa Reggettz at
20 the scene, and this was at 3:30 p.m. on December 13,
21 1979, she had marked rigor of the jaws and neck. She had
22 moderate rigor of the right upper extremity, that is, the
23 right arm and forearm. She had marked rigor, meaning the
24 most you can have, of the left arm and forearm. And

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1 moderate rigor of the right leg, and mild rigor of the
2 left leg. And there were various gradations, if you
3 will, of this post-mortem stiffness of the body of
4 Vanessa Gale Reggettz at that time, with the marked
5 change, the marked stiffness noted at the jaws and neck.

6 Q Did you perform an autopsy upon the
7 body of Vanessa Reggettz?

8 A Yes, ma'am.

9 Q When did you do that?

10 A That was done the following morning on
11 December the 14th, roughly beginning at about 11:00 a.m.

12 Q What was the condition of rigor mortis
13 at that time?

14 A The condition of rigor mortis at that
15 time was that she had fully developed rigor throughout
16 all of her extremities, and of course, still had the
17 persistent rigor of the neck.

18 Q Were you able to determine her weight?

19 A Yes, ma'am.

20 Q What was her weight?

21 A Mrs. Reggettz had a body weight of
22 eighty-seven pounds. She was a small woman. She had a
23 length, or height of life, if you will, of four feet
24 eleven inches.

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1 Q Would a person of small body such as
2 Mrs. Reggettz lose body temperature quicker than a
3 heavier person?

4 A Very definitely.

5 Q How was she clothed?

6 A She was clothed in a nightgown. That
7 is, a thigh- or knee-length nightgown that was either
8 cotton or a cotton flannel composition.

9 Q Let me hand you, at this time, State's
10 Exhibit 155, and ask you if you recognize this?

11 A Yes, ma'am.

12 Q Is this the nightgown of Vanessa
13 Reggettz?

14 A That's correct.

15 Q Did you remove it from her body at the
16 time of autopsy?

17 A That's correct; yes, ma'am.

18 Q And at that time, did you give it to
19 Trooper Smith?

20 A That is correct.

21 Q Did you alter or change it in any way?

22 A No, ma'am.

23 Q Did you also extract a blood sample
24 from Mrs. Reggettz?

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1 A Yes, ma'am.

2 Q What did you do with that?

3 A That was also transferred to Trooper
4 Smith at the same time the nightgown was transferred.

5 Q Did you give him anything else?

6 A I'm sorry -- did you say, "anything
7 else"?

8 Q Did you give him anything else?

9 A Yes, ma'am.

10 Q What was that?

11 A Also, some hand swabs that were
12 performed for gun powder residue, which were given to him
13 at that time. And also, if you are referring to -- no,
14 that was Trooper Williams, I'm sorry.

15 So, that's what was given to Trooper Smith.

16 Q Could you tell the jury what livor
17 mortis is?

18 A Livor mortis, that first word is
19 spelled l-i-v-o-r, is the color of death. And livor
20 mortis occurs in almost every deceased individual, and
21 it characteristically, is a purplish, maroon color which
22 is noted of the skin, and is due to the fact that the
23 blood, in fact, settles under the skin of what we call
24 dependent areas of the body.

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1 I think first, it is important to understand that
2 during life, obviously your blood is pumped throughout
3 your body. The heart is a sort of a pump, or the source
4 of the pumping action. And little small blood vessels
5 in your skin carry the blood to the skin surfaces.

6 And while one has a heartbeat and a blood
7 pressure, the blood circulates through these little tubes
8 of the vessel system in our skin, and it doesn't
9 excessively accumulate in any one place in our body,
10 because it is being driven by the tube system, or through
11 the tube system, by our heartbeat.

12 It's much like water in a garden hose that is
13 just flowing through the hose to the end of the lawn.
14 However, when death occurs, the heartbeat stops,
15 obviously, and then the blood in the skin of the body
16 -- and of course your blood stays liquid for several
17 hours after death. In some cases it may stay liquid for
18 twenty-four hours after death.

19 But at any rate, the blood in life is liquid
20 because it is pumped around. The blood, after death,
21 will stay liquid for only several hours, and with the
22 absence of a heartbeat now -- and if one takes a deceased
23 body lying on its back on the floor, let's say, and one
24 then observes the back of such a person, there will be

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1 a purplish blue hue or color of the skin, which is the
2 settling, post mortem, after death, of this liquid blood
3 from the outside portions of the chest and the inside of
4 the chest, under the skin.

5 This blood will drain and accumulate in excess in
6 the rear portion of the body and it's not -- this
7 phenomenon is not too dissimilar to what would happen,
8 for example, in an oil-soaked sponge.

9 If you were to take a sponge and you soaked it
10 with oil and you set it on a tabletop, and if you come
11 back an hour later, you will have an accumulation of oil
12 because it's heavy, and the lower part of the sponge, if
13 you go and examine the sponge, there will be more oil
14 soaked, or soggy, or whatever, whatever word you want to
15 use, on the lower surface adjacent to the table.

16 So, that's perhaps, the best way to explain why
17 this livor phenomenon occurs. It settles in the deep end
18 of the body. You may have an occasion where an upper
19 extremity -- the person has died in bed, and had an arm
20 hanging off the bed, that arm will be accentuated in its
21 bluish purple coloration because all of the blood from
22 the shoulder and the upper part of the extremity, the arm
23 itself, will drain down into the hand and the lower part
24 of the extremity.

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1 The post mortem phenomenon, or the shifting of
2 blood, is due to the fact that there is no heartbeat any
3 longer.

4 Q Are there dependent areas which do not
5 accumulate or show this symptom of livor mortis?

6 A Yes. There is no pressure behind this
7 gravitational settling of the blood. Actually, that's
8 not really true -- there has to be some pressure, but
9 it's not significant. It is a very small force, or small
10 pressure, insufficient, for example, when with our body
11 lying on the floor, obviously the body is touching the
12 floor in certain areas and it's usually a shoulder blade
13 area and the buttocks, because you have a little
14 curvature in your back, and generally, that will not be
15 resting on the floor, where your body weight is now
16 exerting pressure against the floor surface. The blood
17 will not settle into those areas. There you will have
18 a normal colored skin, which is what we call blanching,
19 b-l-a-n-c-h-i-n-g, blanching.

20 Q Is that because the capillaries are
21 squeezed and the blood can't flow into them?

22 A That is correct. It's a pressure
23 exerted by the weight of the body, itself, and the blood,
24 not being under pressure, cannot get under there.

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1 So, the skin is then colored. As it is normally
2 colored, there is no purplish color in those areas.
3 Tight clothing may give you the same phenomenon. A
4 braziere strap or a tight belt or undershorts with an
5 elastic band will do the same thing.

6 Q What is cyanotic livor mortis?

7 A Cyanotic is a description of the blood
8 which implies a low oxygen level. It's a bluish, maroon
9 coloration, and you see this color of the body that we're
10 seeing after the death in a person who dies an asphyxial
11 death, low oxygen level in the blood.

12 At the time of death, the blood will have a much
13 bluer appearance than will a person who has died of other
14 causes. And that's what the term cyanotic or cyanosis,
15 c-y-a-n-o-s-i-s, refers to. And even living persons may
16 show some of this.

17 If you have a bad case, for example, of lung
18 disease or any obstruction in the -- where you have low
19 oxygen, the person may develop a blueness around the
20 lips. That's what we're talking about. That's what
21 cyanosis refers to.

22 Q Doctor, when you were removing the
23 nightgown of Vanessa Reggett, did you find any other
24 clothing on her body?

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1 A No, ma'am. I believe that was the only
2 clothing she had on.

3 Q She wasn't wearing underwear?

4 A No underwear, no brazziere, nothing
5 else.

6 Q What did you find upon autopsy
7 examination of Mrs. Reggett?

8 A The autopsy examination of Mrs.
9 Reggett, first off, showed that she had died of ligature
10 strangulation. Earlier in the testimony, we had
11 mentioned what that means.

12 When a ligature is applied to the neck of a
13 sufficient magnitude to constrict the blood vessels
14 running from the chest, that is, the heart up to the
15 brain, and when there is sufficient magnitude to also
16 constrict your windpipe system and you have a fatal
17 situation, and this results in the purplish color that
18 we talked about, the hemorrhages in the eyes that we
19 talked about. And, of course, in addition, the external
20 neck of Mrs. Reggett showed a broad area of about a two-
21 inch width or several wraps of a wire, electric wire type
22 material that had been placed around the neck.

23 Q Did the wraps go all the way around her
24 neck?

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1 A That is correct; totally around.

2 Q Now, the little hemorrhages that you
3 were talking about, what are those called?

4 A Well, we didn't get into that, but they
5 are called petechiae, p-e-t-e-c-h-i-a-e, petechiae. The
6 petechiae hemorrhages, they are very small hemorrhages
7 about the size of the head of a pin or smaller, and they
8 occur from ruptured blood vessels, such as when one has
9 a tourniquet around the part of the body -- because the
10 blood can't get back to that area of the body, the
11 arteries are pumping it in and it can't get back, it gets
12 dammed up above the tourniquet and that's what that is
13 from.

14 THE COURT: I know this is not the best time in
15 his testimony to take a break, but I notice that
16 everybody looks like they are warm, so I might ask Tom
17 to fool with the air conditioner.

18 So, let's go ahead and take about ten minutes.

19

20 WHEREUPON, the Court stood in a recess in the
21 hearing of this case.

22

23 (Back on the Record)

24 THE COURT: Okay. Are you ready?

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1 MS. LUSK: Yes, your Honor.

2

3 BY MS. LUSK:

4

5 Q Dr. Sopher, I think you just described
6 petechiae, the little hemorrhages. Are there larger
7 hemorrhages as well?

8 A Yes, ma'am.

9 Q What are those called?

10 A Well, then you would have ecchymosis,
11 e-c-c-h-y-m-o-s-i-s, which are very small hemorrhages,
12 maybe a quarter inch in maximum diameter.

13 Q Are they caused by the same process as
14 petechiae are caused?

15 A That's right.

16 Q What are your findings? I think you
17 were describing your findings upon autopsy of Vanessa
18 Reggett.

19 A We found the ligature injury, and that
20 was the cause of death. We've mentioned the pair of
21 lacerations of the left front forehead scalp area, which
22 is consistent and suggestive of the gun butt situation.

23 And in addition, she had another -- or several
24 other lacerations. These are open gashes to the scalp,

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1 ranging from one-half inch to one inch, and these were
2 located in the right front area, roughly where I am
3 pointing with my first finger. And then the left scalp,
4 above the ear, and the left rear scalp.

5 So, there were three other lacerations. These
6 are non-specific. And by that, what do I mean -- in a
7 single, solitary open wound, either possibly from a blunt
8 object or possibly from falling and striking her head.

9 In addition, there were several, what we call
10 non-specific scratch marks about her lower lip, on her
11 right chest, and above the breast area. There were three
12 very small three-inch bruises on the front of the left
13 armpit area -- again, non-specific.

14 And there were several areas of scraped skin on
15 her left and right hands, that is, the fingers son the
16 left and rights hands.

17 And then we come to a final injury, which gets us
18 back to the scissors, which was plunged into the chest.
19 I noted this at the scene, that they had entered the
20 chest cavity, and finally, come to rest adjacent to the
21 heart. There was no hemorrhage surrounding this wound
22 path.

23 Q What do you mean by that?

24 A Well, when one has a significant

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1 heartbeat in life and you have an injury, the body will
2 bleed. I mean, inside as well as outside. And along the
3 path of this knife stab wound, and it's really a stab
4 wound, or excuse me, scissors, it's a scissors stab
5 wound, there was no hemorrhage along the path of the
6 instrument. This would indicate that the injury was
7 inflicted at about the time of death or after death,
8 after the person had already been deceased, and the body
9 was stabbed. And of course the dead body would not bleed
10 because there is no blood pressure in the area of injury,
11 you see.

12 Q So, it is your opinion that the stab
13 wound was not a cause of Vanessa Reggett's death?

14 A Very definitely not.

15 Q Now, is there a cut or tear on the
16 nightgown, Dr. Sopher, which corresponds with the scissor
17 wound?

18 A I would imagine that's what we're
19 talking about.

20 Q It has very little blood around it?

21 A That's correct. There is some blood,
22 but not very much, and of course, that would be absorbed
23 after death as well.

24 But the hemorrhage that we're talking about is a

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1 hemorrhage inside the body when one has an injury while
2 there is sufficient heartbeat and blood pressure.

3 Q And I believe you stated earlier that
4 in your opinion, to a reasonable degree of medical
5 certainty, it is your opinion that Vanessa Reggettzt died
6 of a strangulation injury?

7 A That's correct. There is no question
8 about that.

9 Q Were you able to, or did you, examine
10 Vanessa Reggettzt's stomach contents?

11 A Yes, I did.

12 Q What did you find?

13 A In the stomach of Mrs. Reggettzt, we
14 found roughly one to two tablespoons worth of a markedly
15 digested material, with recognizable lima beans, slivers
16 of onions, portions of apparent pickle, and a solitary,
17 a single about one and a half inch rectangular meaty,
18 white fleshy material, which appeared to be fish.

19 Q About how long does it generally take
20 for an average adult or person to totally digest their
21 food after they eat?

22 A Well, there is a variation in that as
23 well, but generally speaking, a healthy adult individual,
24 upon eating a standard size meal, will empty the stomach

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1 in about three to four to five hours.

2 Q What might that depend on?

3 A That depends on many factors. Just to
4 begin, how well the food may be chewed and how acid a
5 basic food is will determine how quickly the stomach
6 empties. Also how much fat is in the food. If you eat
7 a fatty meal, it sits in your stomach for a much longer
8 amount of time.

9 It also depends on the status of your gall
10 bladder, which is very important in absorbing and
11 digesting fatty foods. What is the condition of your
12 stomach and your gastrointestinal system. That is,
13 certain people have faster emptying times than others.

14 Persons with ulcer conditions, for example, may
15 not empty their stomachs as rapidly as non-ulcer
16 patients.

17 The state of anxiety for an individual -- for
18 example, an individual who may be bound or in a
19 frightened situation may have just recently eaten a meal,
20 and of course, the anxiety state would delay the emptying
21 time of the stomach of the food which you've eaten.

22 People that have a head injury may be in the
23 hospital in a coma for three days, and alive and in a
24 coma, and subsequently expire. And then we may see upon

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1 examination, a hamburger or a hot dog in the stomach and
2 we know they'd been alive for three days. But head
3 injury cases, again, the motility, the movement and the
4 action of the stomach and intestinal system slows down
5 or maybe totally stops.

6 So, these are just some of the factors. There is
7 a lot of variation about how quickly your stomach
8 empties, but generally speaking, in a three to five hour
9 time period, a standard size meal would no longer be seen
10 in the stomach, after it's eaten.

11 Q I believe your report indicates, Dr.
12 Sopher, that you examined the vaginal contents of Vanessa
13 Reggett and found that they were mildly bloody; is that
14 correct?

15 A That's correct.

16 Q Now, these head injuries that you
17 described, would you have an opinion as to whether the
18 injuries were inflicted before or after death?

19 A Yes, ma'am.

20 Q What is that?

21 A The injuries were inflicted while the
22 patient was living and had a blood pressure.

23 Q Now, the petechiae that you described
24 on the face, and where else did you see it?

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1 A The eyes -- the whites of the eyes, and
2 her eyelids.

3 Q Could that have been, or could that
4 have developed after death?

5 A Well, that's complex. In this case,
6 no, they could not have developed after death, because
7 that is the total pattern of what one sees when there is
8 a ligature strangulation; or for that matter, a
9 strangulation by the hands. A throttling by the hands
10 will give you the same type of pattern. It's usually
11 more extensive when a ligature is tight around your neck
12 than when a hand is used, because throttling -- but to
13 answer your question totally, you may also see these in
14 a non-strangulation case.

15 If a person's head is hanging off the edge of the
16 bed, they may get little hemorrhages after death.

17 Q But in this case?

18 A After -- but in this case, after the
19 neck injury, the suffusion -- this is a classic sign, a
20 classic picture of ligature strangulation.

21 Q So, could you say that these petechiae
22 had developed before the time the scissors were ---

23 A That's correct. They are related to
24 the cause of death, which is the ligature strangulation.

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1 Q Now, Dr. Sopher, on December 13, 1979,
2 did you also view the body of Paul Eric Reggettz at the
3 scene?

4 A That's correct.

5 Q Where was he?

6 A This youngster was on the bed in the
7 middle bedroom; that is, the same bed -- I forget if
8 there were two or three bedrooms, but he was in the same
9 bedroom with the mother, but he was placed on the bed
10 near where the mother's body had lain.

11 Q Let me hand you State's Exhibit 17 and
12 ask you to examine that photograph.

13 Does that photograph depict the body of Paul Eric
14 Reggettz, as you found it on December 13, 1979?

15 A Yes, it does.

16 Q What was the condition of the bed
17 clothing and mattress?

18 A Well, the infant was -- or child, I
19 should say, was obviously wet. I mean, all of the
20 clothing was thoroughly water-soaked. The scalp hair was
21 thoroughly wet, and there was extensive soaking of the
22 bed clothing and mattress and pillow which were adjacent
23 to the body, upon which the body was lying.

24 Q Was the body also wet?

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1 A Well, the body -- yes, it was moist,
2 the skin surface was.

3 Q What about the clothing?

4 A And the clothing was thoroughly moist.

5 Q What about the child's hair?

6 A The scalp hair was wet.

7 Q Did you, at that point, Dr. Sopher,
8 gather a cord which is depicted in that photograph?

9 A That's correct.

10 Q I'll now hand you what has been marked
11 as State's Exhibit 113, and ask you to examine that
12 please.

13 Is that the cord that you gathered from the bed
14 that Paul Eric Reggettz lay on?

15 A That's correct.

16 Q Did you give that cord to Terry
17 Williams on December 17, 1979?

18 A Yes, ma'am.

19 Q Did you alter or change it in any way?

20 A No, ma'am.

21 Q At the scene, Doctor, did you also take
22 the rectal temperature of Paul Eric Reggettz?

23 A Yes.

24 Q What time was that?

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1 A It was also approximately 3:30 p.m. on
2 the same date, the 13th.

3 Q What was his temperature at that time?

4 A His rectal temperature was sixty-three
5 and a half degrees fahrenheit.

6 Q Now, that would be below the
7 temperature of the room; would it not?

8 A That's correct.

9 Q Can you explain that?

10 A Well, of course, this child was
11 obviously immersed in water, which it could have been
12 cold water or cool water. And furthermore, we have now
13 altered in our whole equation for body loss after death,
14 because a body with evaporation process such as wet
15 clothing and moisture will cool more rapidly than a body
16 which is not wet and has not been immersed.

17 More importantly, children cool at a much more
18 rapid rate than do adults. I didn't get into that
19 before, but a child has less body mass. He is less of
20 a furnace than an adult, because he has much less body
21 core. He builds up the same body temperature in life,
22 but he loses it a lot more quickly after death. So, our
23 formula of one and one-half degrees loss per hour just
24 doesn't apply to children. In fact, there is no study

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1 that I know of that has measured or studied post mortem
2 heat loss in children versus hours after death.

3 Q If the child's body was actually
4 immersed in water, would that have an effect on the
5 cooling process?

6 A Very definitely. If the temperature of
7 the water was cooler than the room temperature -- but on
8 the other hand, if it is warmer than the room
9 temperature, the body would absorb the heat. But, of
10 course, then we would see changes in the body from
11 excessive heat, et cetera.

12 Q Did you note the development of the
13 stage of rigor mortis of Paul Eric Reggettzt at the scene?

14 A Yes, ma'am.

15 Q What notation did you make?

16 A This was all at 3:30 p.m. on December
17 13th, and the youngster, Paul Reggettzt, as my notes
18 indicate, had marked stiffening of the jaws and neck at
19 this time, marked stiffening of the right upper
20 extremity, moderate of the left upper extremity, and
21 marked stiffening of the lower extremities.

22 Q Did you subsequently perform an autopsy
23 on the body of Paul Eric Reggettzt?

24 A Yes, ma'am.

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1 Q When? Was that the next day?

2 A Yes, I'm sorry. You said, "When?"
3 Yes, that's correct. The next day, on the 14th, in the
4 morning hours.

5 Q How much did he weigh?

6 A The youngster, Paul Reggett, weighed
7 thirty-nine pounds, and he was thirty-four inches tall
8 in life.

9 Q Did he appear to be his purported age
10 of seven and a half?

11 A That's correct.

12 Q What was he wearing?

13 A He was clothed in a matching pajama
14 type clothing. Actually, if you want to be more
15 specific, a white T-shirt with a child's football helmet
16 design, was underneath of his pajama top and bottom. So,
17 those were his items of clothing.

18 Q And he was wearing underwear?

19 A That's correct.

20 Q Let me hand you what has been marked as
21 State's Exhibit 156, and ask you if you recognize those
22 items?

23 A Yes, ma'am.

24 Q Are those the pajamas of Paul Eric

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1 Reggettz?

2 A Yes, that's correct.

3 Q Did you remove them at the time of the
4 autopsy?

5 A Yes, I did.

6 Q Did you deliver them to Trooper -- or
7 did Terry Williams pick them up on December 17, 1979?

8 A Yes, he did.

9 Q Did you alter them or change them in
10 any way?

11 A No, ma'am.

12 Q Did you also collect a blood sample
13 from the body of Paul Eric Reggettz?

14 A Yes, I did.

15 Q What did you do with that?

16 A That was given to Trooper Williams on
17 the 17th of December.

18 Q Upon autopsy examination, what did you
19 find?

20 A The autopsy examination on the
21 youngster, Paul Eric Reggettz, showed that he had
22 drowned, that is, he had typical signs of inhalation of
23 water, and in addition he had been also ligature
24 strangled about the neck.

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1 He had, again, a ligature pattern around the
2 front portion of his neck, extending to the sides. It
3 was not totally encircling, as we saw and previously
4 described of the mother, but rather suggestive that he
5 was grabbed from behind with a ligature across the front,
6 such as a horse bridle, for example. And he was
7 incapacitated, but alive, when put in the water.

8 Now, whether -- he would be expected to be
9 unconscious at the time he was placed in the bathtub, but
10 he was definitely alive and breathing at the time he was
11 immersed into the bathtub, so that he had inhaled water.
12 His actual cause of death was drowning.

13 Q Did you find any other indications of
14 binding?

15 A Yes.

16 Q What was it?

17 A There were present upon both wrist
18 areas a patterned injury indicating at least that there
19 were not at least two, but there were two solitary wraps
20 of a binding agent around his wrists, or each wrist.

21 Q Did you see the suffusion about his
22 face as you noted on his mother?

23 A No, ma'am.

24 Q What about petechiae?

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1 A There were a few petechiae noted on his
2 face and eyes.

3 Q Do you have any further evidence of
4 injury?

5 A He had other various and insignificant
6 injuries, but indicative of trauma, which was represented
7 by a one and one-quarter inch scratch and abrasion. An
8 abrasion is a scratch-type pattern on the skin, which was
9 present on the left cheek area.

10 He had a pair of very small, one-eighth inch
11 little scratch abrasions on the tip of the nose, and on
12 the midline of the upper lip. And his lower lip showed
13 three very small little bruise and scrape marks where his
14 teeth had been bitten, if you will, or impacted against
15 the lower lip.

16 Q Did you examine the stomach contents?

17 A Yes, I did.

18 Q What did you find?

19 A The stomach contained only water, or I
20 should say, a watery substance, which is another sign of
21 drowning; that is, inhalation of water. There was no
22 food stuff within the stomach.

23 Q Was his stomach content consistent with
24 him having eaten at 7:30 and being killed at 6:00 o'clock

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1 in the morning?

2 A Yes, that would be so.

3 Q And you stated, I believe, that the
4 cause of death was drowning?

5 A This was correct, and contributory was
6 the ligature strangulation.

7 Q Did you view the body of Bernadette
8 Reggett?

9 A Yes, ma'am.

10 Q At the home?

11 A That's correct.

12 Q Where did you find her?

13 A She was lying on the bed in the first
14 bedroom.

15 Q At this time, I'll hand you Exhibits 73
16 and 74, Dr. Sopher.

17 Have you examined those photographs?

18 A Yes, ma'am.

19 Q Do they depict the child as she was
20 lying and as you viewed her at the scene?

21 A Yes, they do.

22 Q Now, at the scene, did you note
23 evidence of injury?

24 A Yes.

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1 Q What did you note at the scene?

2 A It was very obvious upon the external
3 examination of the body that she had suffered, that is,
4 Bernadette had suffered, once again, injury about the
5 neck. And she had a combination of neck injury trauma;
6 one being, again, ligature binding about the neck,
7 meaning a horizontal-type of pattern which completely
8 encircled her neck, number one. And then, of course, a
9 typical, loose hanging pattern from a body suspended from
10 a noose. That is, the body lays at an angle to the
11 noose, which in and of itself, is perpendicular to the
12 ground. So, the body hangs from a high end, if you will,
13 and this is a typical pattern in a noose indentation of
14 the neck which was present, and the high end was behind
15 the right ear. That is to say that the body would have
16 been suspended.

17 When I saw the body, it was lying on the bed, and
18 the noose was removed. But she would have been hung with
19 her head slumped over to the left and this patterned
20 noose coming up in front of the right ear and behind the
21 right ear, so you had that hanging pattern there, in
22 addition to a separate pattern of a solitary, totally
23 encircling ligature around the neck as well.

24 Q So, it's my understanding that she was

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1 strangled on two separate occasions?

2 A That's correct. She's had two modes of
3 strangulation, both ligature and hanging. Both of those
4 are both strangulation, and the third mode is manual,
5 using the hands, just to clarify.

6 Q When she was hanged and the noose was
7 placed around her neck, could the horizontal ligature
8 have been underneath it?

9 A That could be possible. That could be
10 possible, but if that were the case, in most instances
11 like this, where you have both modes of both ligature and
12 hanging, you would think the initial wire would still be
13 in place.

14 It may even be that the noose itself within which
15 the body was found suspended, may have been the item used
16 for the ligature.

17 Q Was there any indications -- I believe
18 you said there was a noose mark on her neck?

19 A Yes, that's correct.

20 Q Was there any indication that there had
21 been another ligature underneath that at the time of the
22 hanging?

23 A I believe there was a pattern that was
24 different from the noose pattern. If that's important,

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1 I'd have to look through my notes. It was a different
2 pattern. The obstruction of a noose, as such, that it
3 wouldn't give you a totally encircling ligature pattern
4 as we saw on her.

5 What I meant to say earlier, but what I was
6 mentioning, is that prior to making the noose, this same
7 noose material may have been used as a ligature and then
8 it was removed and a noose made to suspend the body.

9 Q But at the time she was hung, the
10 horizontal ligature was not in place under the noose?

11 A That's correct. Generally, one would
12 not remove the one. They would leave both in place.

13 Q When you say, the high end, what about
14 the neck tells you that that was there? Is there an
15 indentation?

16 A Yes, ma'am. There was an obvious
17 inverted "V" pattern where your noose, which, of course,
18 is encircling, but it leaves the neck at a certain point
19 and leaves the neck at other points from which the body
20 is suspended, so that the deepest injury in a person who
21 was suspended in an noose is on the opposite side as to
22 where the noose is attached, to whatever the suspension
23 system is.

24 Q Did you find that in this case?

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1 A That's correct.

2 Q At the scene, did you observe the rigor
3 mortis of Bernadette?

4 A Yes.

5 Q What did you find?

6 A I found that she had marked and
7 diffused livor of the lower extremities, and the front,
8 back and especially the soles and heels of the feet,
9 which is what one would expect, of course, based upon
10 what we talked about earlier in an individual who has
11 been suspended with feet off the ground.

12 Q If she had not had her feet off the
13 ground, would you expect to find something different?

14 A Yes.

15 Q What would that be?

16 A Well, if her feet were touching the
17 ground -- first, let me clear up something else.

18 One doesn't have to be totally suspended, that
19 is, your whole body off the ground, to be hung. In fact,
20 you can hang oneself, really, almost by lying down.

21 That is to say, you can fashion a noose around
22 your neck and tie it to a door knob and lean forward.
23 You could even sit next to the door and lean forward and
24 you will asphyxiate yourself, or you can attach it to the

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1 door knob and lay in the noose -- as long as your head,
2 neck and shoulders are above the level of the floor and
3 suspended in the noose, that will result in the death.
4 That's point number one. So, the body doesn't have to
5 be totally elevated off the ground to hang oneself.

6 Point number two is, in some cases, we do see
7 individuals who hang themselves; usually, it's a suicide,
8 from, for example, a closet rod, but their feet are still
9 touching the ground, or barely touching the ground.

10 In those cases, they, of course, show the
11 dependent livor mortis into the legs, which is very
12 prominent, but where the balls of their foot or their
13 heel is touching the floor, for the same reasons we
14 discussed earlier, they are the same color as the normal
15 skin.

16 You see this blanching pattern in the case of the
17 infant, Bernadette. She had the livor mortis throughout,
18 and no blanching of the heels and the soles. So, of
19 course, that indicates that she was totally -- her feet
20 were totally off the ground, her body was totally
21 suspended from the neck.

22 Q And if Bernadette Reggett had laid on
23 the bed all night long, would you have expected to find
24 a livor mortis pattern as you did?

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1 A No, ma'am.

2 Q How would it have been different?

3 A Well, the livor mortis would have
4 settled into the legs only, and would not have been
5 diffuse, that is, on all surfaces, including the front
6 surface of the heels and soles.

7 It would be a different pattern for the reasons
8 that we talked about earlier. The livor mortis would set
9 in according to gravity, and here you have a young child
10 who had been lying on the bed, I guess you mean many
11 hours. At the time I saw her, she would not have had the
12 overall pattern of livor of the legs as was seen at the
13 scene of death.

14 Q Could the degree of livor that you saw
15 have developed in say, a couple of hours?

16 A Probably not.

17 Q What is that?

18 A It's too intense for that.

19 Q So, this pattern of livor on
20 Bernadette, then, would be inconsistent with her hanging
21 for two hours or twelve hours?

22 A That's correct. Well, inconsistent, at
23 which point she was placed on the bed.

24 Q Let me ask you two separate questions.

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1 If she had been placed on the bed at 10:00 or 12:00
2 o'clock, after she -- well, no, wait. If she had hung
3 on the door for a couple of hours, and then placed on the
4 bed there to lie for the whole night long, what would you
5 have expected to find?

6 A Then we would not have seen the livor
7 pattern on her lower extremities, as we were seeing at
8 3:00 o'clock in the afternoon.

9 Q If she had been hung the previous
10 night, prior to midnight and had been hanged on the door
11 until, say, noon the next day, twelve hours, what would
12 you have expected to find?

13 A Then it would be possible that it would
14 have fixed in that condition; that would be possible.

15 Q Are you saying that it did not fix in
16 that location?

17 A I'm stating that when I saw her, it had
18 settled in the legs in that pattern.

19 Q But it wasn't fixed?

20 A That's correct. She had not been on
21 the bed for a long period of time, let's put it that way,
22 since, like, midnight, for example.

23 Q Did you say, though, you also expected
24 this livor pattern to be more intense if she had hung for

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1 twelve hours?

2 A That's correct.

3 Q Now, did you also notice some mottling
4 of her legs?

5 A Yes, ma'am.

6 Q Would you describe for the jury what
7 that is?

8 A Well, mottling is really just a
9 confluence of -- that's m-o-t-t-l-i-n-g, mottling -- it's
10 just a confluent livor mortis; that is, it's blotchy --
11 blotchy would be a good description. It's a blotchy
12 discoloration of the skin, which is due to the livor
13 pattern.

14 Q Did you note such pattern on her legs?

15 A Yes, I did.

16 Q What is that consistent with?

17 A Well, that's just a livor mortis, of
18 course, settling in her legs. That's what we're
19 describing.

20 Q If she had laid on the bed for twelve
21 hours, would you have expected to find the mottling
22 pattern that you found?

23 A No, ma'am.

24 Q How would it be different?

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1 A Well, it would have shifted from the
2 front part of the legs to the back. As I stated earlier,
3 it would not be diffused and involving her legs as we saw
4 at the scene.

5 Q At the time of autopsy, had it, in
6 fact, shifted?

7 A I think it had, yes. But of course, at
8 the time of the autopsy examination, the heels and the
9 soles of the feet had maintained the livor pattern, which
10 was important and noted at the scene the day before. But
11 there was some shifting of the livor from the front of
12 the extremities toward the back.

13 Q Did you notice ---

14 A By the way, I would note that she had
15 not been suspended, for example, since midnight or 1:00
16 a.m. and then placed on the bed at a later time.

17 Q Because you wouldn't have expected it
18 to have later shifted?

19 A That's correct.

20 Q So, the mottling pattern of the livor
21 mortis pattern in Bernadette Reggett is much more
22 consistent with the time of death in the neighborhood of
23 6:00 o'clock in the morning than at midnight the day
24 before?

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1 A That's correct, if one is assuming that
2 she was -- one has to know how long she was suspended.
3 You see what I'm saying?

4 Q Sure. If she had not been suspended
5 for more than a couple of hours?

6 A That's correct, and placed on the bed
7 within a short time. It had been several hours when that
8 livor pattern was seen.

9 Q Did you take her temperature at the
10 scene?

11 A Yes, ma'am.

12 Q Was that also around 3:30 in the
13 afternoon?

14 A That's correct.

15 Q What was her temperature?

16 A Her temperature, I believe, was
17 seventy-four degrees -- correction, that's seventy-four
18 degrees fahrenheit.

19 Q Did you also notice the rigor mortis
20 development of her body?

21 A Yes, I did.

22 Q At the scene, at about 3:30, what did
23 you find?

24 A Bernadette had, at that time, of her

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1 jaws and neck, she was markedly stiff. Of her upper
2 extremities, she had moderate to marked rigor mortis, and
3 of the lower extremities, moderate to mild rigor mortis.
4 So, she had marked to mild rigor.

5 Again, of the jaws and neck, it was similar to
6 the mother.

7 Q So, her rigor mortis had not fully
8 developed?

9 A That's correct.

10 Q At the time of the autopsy the next
11 day, it had been fully developed?

12 A At the time of the autopsy examination
13 the next day, she still had -- excuse me, it had fully
14 developed throughout; that's correct.

15 Q Did you notice anything in particular
16 about Bernadette's tongue, at the scene, Dr. Sopher?

17 A Yes. The tongue was protruding between
18 the lips, and it was dry. That's what we see in hanging
19 deaths, again. That is, in a body suspension.

20 Q Did you perform the autopsy examination
21 of Bernadette Reggett?

22 A Yes, ma'am.

23 Q Was that on December 14, 1979?

24 A That's correct.

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1 Q Did she appear to be her reported age
2 of four years?

3 A Yes, ma'am.

4 Q How much did she weigh?

5 A Twenty-nine pounds.

6 Q How long was she?

7 A Forty inches.

8 Q What was she wearing at the time?

9 A She was clothed in a pair of long-
10 sleeved pajama shirt that had the name Champ, C-h-a-m-p,
11 on the front. She had an underlying white T-shirt on,
12 and underpants, all in normal position on the body.

13 Q Let me hand you what's been marked as
14 State's Exhibit 116-A, and ask you if this is the shirt
15 of Bernadette Reggett?

16 A That's correct.

17 Q Did you remove it from her body at the
18 time of autopsy?

19 A Yes.

20 Q And did you later turn it over to
21 Trooper Terry Williams?

22 A Yes, I did.

23 Q When was that, Dr. Sopher?

24 A December 17th of '79.

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1 Q At the same time, did you also give
2 Trooper Williams a blood sample from Bernadette?

3 A Yes, I did.

4 Q During the period of time that
5 Bernadette's clothes were in your possession, did you
6 alter them or change them in any way?

7 A No, ma'am.

8 Q What did you find upon autopsy -- or,
9 Doctor, before I get to that, in the photograph there
10 appears to be some bluish or greenish marks on
11 Bernadette's skin. Do you know what those are?

12 A Those are tattoos. She had obvious
13 tattoos; I imagine that's what you're referring to.

14 Q Yes.

15 A On the left upper extremity, a child's
16 transfer tattoos, that they moisten and put on their
17 skin. She had a pair of these on the left upper
18 extremity, one on her nose, and I think the boy also had
19 one of those. And I think maybe the mother as well. But
20 I remember those.

21 Q What did you find upon autopsy
22 examination of Bernadette Reggett?

23 A The findings of the autopsy upon
24 Bernadette were that she had died of ligature

Sopher - Direct

861

1 strangulation by hanging, and when you have a mode of
2 exodus involving two causes of death, one cannot separate
3 one from the other in this particular case.

4 In other words, what I'm saying is that whether
5 she were alive or not when suspended from the door, I
6 can't be certain. She certainly had ligature
7 strangulation injury about the neck, and also had
8 strangulation injury about the neck, and had little
9 petechial hemorrhages, which we talked about earlier, of
10 her face and eyes as well.

11 As to whether she was definitely alive at the
12 time she was hung up, having been dead already from
13 ligature strangulation, I think it's too close to call.
14 So, she may or may not have been dead at the time she was
15 hung, or she may have been just unconscious from the
16 ligature and then hung on the door, and died from
17 hanging. Either one could be responsible for her death;
18 there's no question.

19 And there was no other cause of death about her.

20 Q Did her face also show the suffusion?

21 A Yes, it did.

22 Q Was it as marked as on her mother?

23 A Not as marked, no, ma'am.

24 Q Did she have petechiae?

Sopher - Direct

862

1 A Yes, she did.

2 Q Whereabouts?

3 A Of the face and the eyes.

4 Q Did you examine her stomach contents?

5 A Yes, I did.

6 Q What did you find?

7 A The stomach contents were negative;
8 that is, there was no presence of food of any type within
9 her stomach.

10 Q Is that consistent with eating dinner
11 in the evening and being killed at 6:00 o'clock in the
12 morning?

13 A Yes, it is.

14 Q Do you have an opinion about whether
15 these people could have been killed as early as 9:00
16 o'clock the previous evening?

17 A Yes, I do.

18 Q What is that?

19 A Assuming, number one, that they had
20 eaten a meal at the usual dinner hour, and I think that
21 was part of the original history that was obtained by law
22 enforcement, that is, that there was a meal in between
23 6:00 and 8:00 p.m., something of that nature, although
24 it was unknown how much the children may have eaten, as

Sopher - Direct

863

1 I recall, that was back a few years.

2 Plus, the absence of the rigor mortis and the
3 level of the mother, that would not be expected that at
4 9:00 p.m. on the night of December 12th, is too early of
5 a timeframe for it not to be expected to represent the
6 time of death of these individuals.

7 Q On the evening of December 13, 1979,
8 did you examine Paul Reggett, the adult?

9 A Yes, December 13th it would have been;
10 that's correct.

11 Q Did you ask him to show you his arms
12 and legs?

13 A That's correct. And I think I lifted
14 up his shirt and he dropped his trousers.

15 Q What were you looking for?

16 A Well, having been at the scene, and
17 there was evidence of various blood splatters about the
18 house, that ---

19 Q You were looking for evidence of
20 injury? Did you find any?

21 A No. There was no evidence ---

22 MR. BICKLEY: Your Honor ---

23 THE WITNESS: -- of injury of any type on the
24 areas examined, which would be on his hands, arms, legs,

Sopher - Direct

864

1 et cetera. I think he lifted up his shirt and dropped
2 his trousers, but I'm not sure of that at this point.

3 I remember that there was no visible injury,
4 however, certain to the exposed areas of the body, which
5 would include his hands, forearms, and face.

6 MS. LUSK: I think that's all I have at this
7 time, your Honor.

8

9 CROSS-EXAMINATION

10

11 BY MR. BICKLEY:

12

13 Q Dr. Sopher, if I tell you that there
14 was testimony previously that the children did not have
15 any dinner that evening, and you finding no food in their
16 stomach, would that be inconsistent testimony, vis-a-vis
17 what you actually saw?

18 A Well, of course, the stomach contents
19 are one aspect that we look at in estimating the time a
20 person died. And if someone hasn't, in fact, eaten, then
21 you can't use that three to four to five hour interval,
22 but the degree of rigor mortis, or stiffening of the
23 body, and the temperature of the mother would suggest
24 that they, in fact, had not been deceased since 9:00

Sopher - Cross

865

1 p.m., if that's the situation that you're asking me
2 about. That is, they don't show enough stiffening or the
3 mother hasn't lost enough, you know, body heat, for one
4 to conclude or reasonably expect that the deaths would
5 have occurred as early as 9:00 p.m.

6 Q Would it be safe to say that the
7 possible time of death could have been arranged say,
8 between 12:00 o'clock to 3:00 o'clock?

9 A Possibly, but not likely.

10

11

REDIRECT EXAMINATION

12

13 BY MS. LUSK:

14

15 Q At the time this estimate was raised,
16 had you weighed Vanessa Reggett?

17 A At the time this estimate was raised,
18 this was based upon the amount of rigor mortis noticed
19 at the scene, and the rectal temperature that we talked
20 about earlier, which was taken at the house of the
21 individuals where the murders and deaths occurred.

22 The stomach contents were not available at that
23 point, because we had not done the autopsy examinations
24 at that point, and of course, I realize that most of you

Sopher - Redirect

866

1 have never been involved with a death investigation, but
2 at a death scene, based upon the rigor mortis and body
3 temperature, plus other information that may incoming
4 from the scene itself, an estimate is derived and a
5 forensic pathologist will derive an estimate from law
6 enforcement even at that early stage of the
7 investigation.

8 As to during what timeframe, the pathologist
9 thinks the deaths occurred, and primarily upon the body
10 temperature at that point, of Mrs. Reggett, the window
11 was provided to the law enforcement agency that you're
12 probably looking at somewhere between 12:00 midnight of
13 the 13th; that is, 12:01 a.m. of the 13th, and like 4:00
14 a.m. of the 13th.

15 But as I've been mentioning, there's a lot of
16 variation in everything one looks at for time of death
17 estimation; it's an estimate, not like what one sees on
18 Perry Mason or our friend, Quincy. By the way, Quincy
19 is a forensic pathologist, you know. We're not as good
20 as Quincy, and there is no person, for example, when
21 you're talking about estimating time of death between,
22 let's say 2:00 a.m. in the morning or 1:00 a.m. in the
23 morning or 6:00 a.m. in the morning, when you're looking
24 at bodies at 3:00 o'clock or 3:30 the next afternoon.

Sopher - Redirect

867

1 The dead body is just not that specific in what
2 we have to observe or measure to narrow it down to either
3 one of those times.

4 Q When you looked at, or when you gave
5 this window at the scene, Dr. Sopher, had you weighed
6 Vanessa Reggett?

7 A At that point, she was not weighed.
8 She would have been weighed later that evening.

9 Q And did you state earlier that the
10 formula that you used was for a person of average body
11 weight?

12 A That's correct.

13 Q And that means that Vanessa Reggett
14 would lose body temperature quicker than the average
15 person because of her slight stature?

16 A That's correct.

17 Q Now, when you look at the time of death
18 in this case, Dr. Sopher, as we were stating earlier, let
19 me ask you this first.

20 Is there anything about any of these three bodies
21 that is inconsistent with the time of death being at 6:00
22 o'clock in the morning?

23 A There is nothing in any of the three
24 bodies that would eliminate 6:00 a.m. on the 13th of

Sopher - Redirect

868

1 December as being the time of death. And, for that
2 matter, even 7:00 a.m. It isn't that specific.

3 But to answer your question directly, there is
4 nothing that eliminates that possibility.

5 Q When you look at the livor mortis
6 pattern and the mottling pattern of Bernadette Reggett's
7 legs, is -- let me pose two hypotheses: If Bernadette
8 Reggett had been killed and hung on the door some time
9 prior to midnight, no earlier than, say, 11:00 probably.
10 And if she had hung on that door until 1:30 and was taken
11 down and placed on the bed ---

12 MR. BICKLEY: May we approach the bench, your
13 Honor?

14 THE COURT: Yes.

15
16 WHEREUPON, a bench conference was held, and the
17 following transpired:

18
19 MR. BICKLEY: She had rested. I asked two
20 questions, and now we open up the argument again.

21 MS. LUSK: The whole thing is the time of death,
22 Judge. That's the whole thing.

23 MR. BICKLEY: We've been through this livor
24 mortis once, and I asked nothing about livor mortis.

Sopher - Redirect

869

1 MS. LUSK: He asked time of death questions.

2 THE COURT: I understand that. But is he going
3 to testify to something that he hasn't already testified
4 to?

5 MS. LUSK: No.

6 THE COURT: Well, it's just repetition, then.

7

8 WHEREUPON, the bench conference was concluded.

9

10 (Back on the Record)

11

12 MS. LUSK: That's all I have.

13 MR. BICKLEY: I have no further questions, your
14 Honor.

15 THE COURT: Doctor, you may step down.

16 May he be excused?

17 MS. LUSK: Yes.

18 MR. BICKLEY: Yes, your Honor.

19 THE COURT: Folks, we'll take about five minutes.

20

21 WHEREUPON, the Court stood in a recess in the
22 hearing of this case.

23

24 (Back on the Record)

870

1 WHEREUPON, the was an off-the-record bench
2 conference.

3

4 (Back on the Record)

5

6 THE COURT: Let me apologize for the delay. By
7 the way, I think they got the air conditioning fixed.
8 I was embroiled in telephone calls that took longer than
9 I thought. It was purely my fault.

10 Okay. You want to call your next witness?

11 MR. REVERCOMB: Yes, your Honor. The State would
12 call Paul Fortson.

13

14 WHEREUPON, Paul Fortson was duly sworn, and upon
15 his oath, deposed as follows:

16

17 DIRECT EXAMINATION

18

19 BY MR. REVERCOMB:

20

21 Q Would you please state your name, sir?

22 A My name is Paul Fortson.

23 Q You need to speak up. Can you please
24 speak into the microphone?

Fortson - Direct

871

1 A My name is Paul Fortson.

2 Q Where do you live?

3 A 1725 Chesapeake Avenue, in St. Albans.

4 Q Are you familiar with the house at 1727
5 Chesapeake Avenue?

6 A Yes, I am.

7 Q Is that next door to you?

8 A Yes, it is.

9 Q Who owns that house?

10 A It's owned by my father, Alexander
11 Fortson.

12 Q How long have you lived at 1725
13 Chesapeake Avenue?

14 A Twenty-six years.

15 Q Mr. Fortson, I'm going to have you
16 what's been marked for identification purposes as State's
17 Exhibit 1, and ask you to examine that photograph, and
18 tell us what that photograph depicts?

19 A It's a house next door to my house --
20 my father's house.

21 Q Is that the way it appeared in 1979?

22 A Yes, it is.

23 Q I will now hand you what has been
24 marked for identification purposes as State's Exhibit 3

Fortson - Direct

872

1 and ask you to speak up and tell us what that is?

2 A It's the house next door to mine, this
3 is my grandfather's house and grandmother's house.

4 Q Is that the same house at 1727?

5 A Yes, it is.

6 Q What view is that of the house?

7 A This is the rear view of the back, off
8 of the railroad tracks.

9 Q Does that depict the house as it
10 existed on December 13, 1979?

11 A Yes, it does.

12 Q In State's Exhibit 3, can you see the
13 back door?

14 A Yes, I can.

15 Q Can you tell us how this back door was
16 hung on its hinges?

17 A Okay. The top hinges were -- the
18 screws were kind of loose, so you'd have to lift up on
19 the door to close it.

20 Q How did you close it? Did the door
21 open into or outside of the house?

22 A It opened into the house.

23 Q So, if you were closing it in the
24 kitchen, how would you close it?

Fortson - Direct

873

1 A You'd have to lift up on it and push on
2 it in order to shut the door if you's going inside.

3 Q For it to fit into the door frame?

4 A Yes.

5 Q Since 1979, have you done some work on
6 this house?

7 A Yes. We've done extensive work on that
8 house on the inside of it.

9 Q On the inside?

10 A Yes.

11 Q It's been painted on the outside, too,
12 hasn't it?

13 A Yes. The outside's been painted.

14 Q What's been done on the inside of the
15 house?

16 A Well, we paneled three rooms, put in a
17 new drop ceiling which is in the living room, taken the
18 door off the back bedroom which leads to the bathroom,
19 and built a new closet in there.

20 We've taken and built some walls out of
21 sheetrock.

22 Q Did you put up the new sheetrock in the
23 same location as the previous walls were located?

24 A Yes.

Fortson - Direct

874

1 Q So, you built a closet in the back
2 bedroom -- can you describe that a little bit?

3 A It's made out of cedar. Where the
4 doorway is when you come out of the dining room into the
5 bedroom, it starts right at the doorway and goes and cuts
6 back towards the bathroom.

7 Q Would you please step down and show
8 that to us on this diagram?

9 A (Indicating)

10 Q Where is the room that you call the
11 dining room? Is this the back room door?

12 A This would be the dining room here
13 (Indicating).

14 Q Where is the back bedroom that you
15 talked about putting the closet in?

16 A It would be behind this door and we
17 built the closet to go around there.

18 Q You've done that since the murders in
19 1979?

20 A Yes, I have.

21 Q Have you done anything in this living
22 room next to the fireplace?

23 A Yes. We have closed in the fireplace
24 all the way up.

Fortson - Direct

875

1 Q What about the front bedroom? This
2 door between the front bedroom and the living room?

3 A Okay. It's closed right now. And the
4 door is kept shut.

5 Q It is not used?

6 A No, it's not used.

7 Q And this is the front door?

8 A Yes, it is.

9 Q Now, I'll show you what's been marked
10 for identification purposes as State's Exhibit 21 and ask
11 you if you can identify what room this is a photograph
12 of?

13 A Okay. It's the dining room -- I call
14 it the dining room.

15 Q Is the TV room in this room?

16 A Yes, it was sitting right there
17 (Indicating).

18 Q Now, which wall would the TV have been
19 against in this photo in 1979?

20 A Against this wall.

21 Q In 1979, were there any electrical
22 outlets on this wall?

23 A No, there wasn't.

24 Q Are there now?

Fortson -- Direct

876

1 A Yes, sir, there is. There is one on
2 each wall now.

3 Q On each of these walls?

4 A Yes, on all four walls.

5 Q What is that a result of?

6 A We've rewired the house and put in a
7 new panel box.

8 Q You have electrically rewired the whole
9 house?

10 A Yes.

11 Q And it's your testimony that there was
12 no outlet on this wall in '79?

13 A No.

14 Q What about this wall (Indicating)?

15 A No.

16 Q What about this wall over here?

17 A No, there wasn't.

18 Q How about on this side wall here where
19 you go into the living room?

20 A Yes, there was.

21 Q In 1979, there was?

22 A Yes.

23 Q I believe there was a heater there at
24 that time, too?

Fortson - Direct

877

1 A Yes, there was.

2 MR. REVERCOMB: I believe that's all I have.

3 MR. HUFFMAN: We have no questions at this time,
4 although I would note that the witness has also been
5 subpoenaed by the defense.

6 THE COURT: Will you give him notice if you need
7 him?

8 MR. HUFFMAN: Yes, I will.

9 THE COURT: I'm going to excuse you now, Mr.
10 Fortson. If needed, your attorney will contact you.

11 THE COURT: Okay, call your next witness.

12 MR. REVERCOMB: Your Honor, I believe that's all
13 of the witnesses that we have for today.

14 THE COURT: Well folks, it looks like you will
15 get off early again today. The pace is really moving a
16 bit more quickly than expected and we anticipate that
17 it's not going to take the full two weeks that we had
18 originally planned. That's why I'm not hesitant to knock
19 off and recess a little bit early.

20 As you know, you've all been members -- seen
21 members of the media here, both television and newspaper.
22 I'll remind you of my admonition to please do not watch
23 any television coverage or read any newspaper articles
24 because it is sure to be there.

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1 Now, put the case out of your minds until you
2 return tomorrow. We'll get started at 9:00 o'clock.

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to-wit:

I, Connie L. Cooke, Official Reporter for the Circuit Court of Kanawha County, do hereby certify that the foregoing is a true and correct transcript of the proceedings had and reported in the matter of the State of West Virginia versus John Moss, Jr., aka John Moss, III, upon action number 82-F-221, as stated in the caption hereto, had on the 19th day of April, 1990, during the May 1990 Term of said Court, as reported by me and transcribed into the English language.

I hereby certify that the transcript within meets the requirements of the Code of the State of West Virginia, 51-7-4, and all rules pertaining thereto as promulgated by the Supreme Court of Appeals.

Given under my hand this 13th day of July, 1990.

Connie L. Cooke

Official Reporter

1 IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2

3

4 STATE OF WEST VIRGINIA

5

6 v.

Action No. 824F-221

7

8 JOHN MOSS, JR., aka JOHN MOSS, III

9

10

11 BEFORE: Hon. A. Andrew MacQueen, Judge

12

Day 5

13

14

15

APPEARANCES

16

17 For the State: Neva Lusk and Stephen Revercomb,
18 Assistant Prosecuting Attorneys for Kanawha County.

19 For the Defendant: The Defendant, in person, and
20 by Nelson R. Bickley, Timothy N. Huffman, and Kathy
21 Beckett, his counsel.

22

23

24

25

Connie L. Cooke

Official Reporter

FILED
JAN 23 1930

ANCH G. RAMEY, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

32

571

WITNESSES FOR THE PLAINTIFF

		D	X	RD	RX
1)	Trooper Terry Williams	425	590	612	619
2)	Scott Leasure	625	630		
3)	John Fulks	631			
4)	Joe Dean Jarrell	635	640		
5)	William D. Estep	643			
6)	Lt. Clarence Ralph Lane	650	654		
7)	Paul Reggett	661	735	762	764
8)	Trooper Robert R. Custer	767	779	781	
9)	Sgt. R. L. Presson	782	796	798	
10)	Irvin R. Sopher, M.D.	799	864	865	
11)	Paul Fortson	870			
12)	Arbutus Johnson Pomeroy	896	903	905	
13)	Michael D. Smith (In Camera)	907	913		
14)	John Moss (In Camera)	917	919	914	
15)	Michael Don Smith	931	978		
16)	Charles E. Pettry, Jr.	997	1004	1009	
17)	Lt. David H. Shumate	1021	1045		
18)	Fred S. Zain	1048	1053		
	and	1065	1125	1135	1137

WITNESSES FOR DEFENDANT

1

2

3

D X RD RX

4

5

1) Alexander Fortson

1164 1173

6

2) Willie James Moss

1179 1187 1191 1192

7

3) John Moss, Jr.

1193

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4) John C. Wideman

1202 1204

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5) Trooper Howard Woodyard

1208 1222 1233 1234

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1 BE IT REMEMBERED, that on Friday, the 20th day of
2 April, 1990, during the January 1990 Term of said Court,
3 in the matter of the State of West Virginia versus John
4 Moss, Jr., aka John Moss, III, Action No. 82-F-221, as
5 stated in the caption hereto, the following transpired:

6

7 (The following took place in the Jury Room,
8 whereupon the Judge conducted individual voir dire)

9

10 THE COURT: Bring in Steve Gancs.

11

12 WHEREUPON, Steve Gancs was brought to the jury
13 room.

14 THE COURT: Good morning, Mr. Gancs. Please have
15 a seat. I know that -- you know that I've asked you all
16 not to read the newspapers. I just want to know if
17 you've read the newspapers?

18 JUROR GANCS: No, I've stayed away from them.

19 THE COURT: Has anybody talked to you about what
20 is in the newspaper this morning?

21 JUROR GANCS: No.

22 THE COURT: Nothing? Nothing at all?

23 JUROR GANCS: No.

24 THE COURT: Do you have any questions?

1 MS. LUSK: No, Judge, I have no questions.

2 MR. BICKLEY: No, we have none.

3 THE COURT: Now, don't tell anybody what we're
4 calling everybody back here for.

5 JUROR GANCS: All right.

6 THE COURT: Okay. Please bring in Mr. Boyd.

7

8 WHEREUPON, William Boyd was brought to the jury
9 room.

10 THE COURT: Hello, Mr. Boyd. Have a seat.

11 As has been the case, typically there was a piece
12 in the newspaper this morning. Did you see it?

13 JUROR BOYD: No, I didn't.

14 THE COURT: Have you heard anybody discuss it or
15 say anything about it?

16 JUROR BOYD: No.

17 THE COURT: If anybody should bring that article,
18 or any article, to your attention, would you please tell
19 me?

20 JUROR BOYD: Yes, sir.

21 THE COURT: Very good. Thank you.

22 JUROR BOYD: My wife looks at the paper, but she
23 doesn't know what I'm on or anything.

24 THE COURT: She doesn't? I'll bet she'll be

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1 surprised when you get back. She hasn't see you on TV;
2 has she?

3 JUROR BOYD: No, not yet.

4 THE COURT: Okay. You can go on back.

5 JUROR BOYD: Thank you.

6 THE COURT: Please bring back Frances Batman.

7

8 WHEREUPON, Frances Batman was brought to the jury
9 room.

10 THE COURT: Hi, Ms. Batman. Is it Batman or
11 Bateman?

12 JUROR BATMAN: Batman.

13 THE COURT: As there has been throughout most of
14 this trial, there is an article about this case in this
15 morning's paper. Did you see it?

16 JUROR BATMAN: No, we don't get that paper.

17 THE COURT: Has anybody tried to discuss that
18 article with you?

19 JUROR BATMAN: No.

20 THE COURT: If anybody should do that, would you
21 tell me, please?

22 JUROR BATMAN: I will.

23 THE COURT: Good. Thank you very much.

24 JUROR BATMAN: I haven't been able to watch

1 television or read the newspapers since I've been here.

2 THE COURT: Thank you, ma'am.

3 Okay. Bring in Elizabeth Stern.

4

5 WHEREUPON, Elizabeth Stern was brought to the
6 jury room.

7 THE COURT: Good morning. How are you, Mrs.
8 Stern?

9 JUROR STERN: Fine.

10 THE COURT: There's nothing in particular --
11 there's just a piece in this morning's newspaper, and I
12 just wondered -- did you have a chance to see that?

13 JUROR STERN: No, I didn't see this morning's
14 paper.

15 THE COURT: Well, let me ask you to please not
16 see it, and as I've asked before, has anybody mentioned
17 anything to you about it?

18 JUROR STERN: No, I talked to my boss this
19 morning, but he didn't say anything. He usually makes
20 some crack about how this is supposed to last longer than
21 two weeks.

22 THE COURT: He doesn't know that we're going to
23 get out of here early. If anyone should say something
24 to you about any of these things, please let me know.

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1 JUROR STERN: All right.

2 THE COURT: Okay. Bring in Linda Haynes.

3

4 WHEREUPON, Linda Haynes was brought to the jury
5 room.

6 THE COURT: Hi, Ms. Haynes. Have a seat. How
7 are you this morning?

8 JUROR HAYNES: Fine.

9 THE COURT: We're just doing a kind of routine
10 check. There was a piece in this morning's paper about
11 this case. Did you have a chance to see that?

12 JUROR HAYNES: No.

13 THE COURT: Have you heard anybody discuss it?

14 JUROR HAYNES: No.

15 THE COURT: Well, if anybody should tell you
16 anything about that or any other publicity, would you let
17 me know?

18 JUROR HAYNES: Okay.

19 THE COURT: Good.

20 Okay. Bring in Sherry Grubb.

21

22 WHEREUPON, Sherry Grubb was brought to the jury
23 room.

24 THE COURT: Hi, Ms. Grubb. How are you this

1 morning?

2 JUROR GRUBB: Just fine, thank you.

3 THE COURT: We just want to ask -- there's an
4 article in this morning's paper about this case, and --
5 did you have a chance to see that?

6 JUROR GRUBB: No. I don't get the morning paper.

7 THE COURT: Good. Has anybody talked to you
8 about it or said anything about it?

9 JUROR GRUBB: No.

10 THE COURT: If anybody tells you anything about
11 that or any other stories or something on television,
12 would you let me know?

13 JUROR GRUBB: Okay.

14 THE COURT: Thank you.

15 Okay. Bring back Jacqueline Hill.

16

17 WHEREUPON, Jacqueline Hill was brought to the
18 jury room.

19 THE COURT: How are you, Ms. Hill? You want to
20 sit down for just a second? We're just kind of checking
21 in with everybody.

22 There was an article and a news story about this
23 case in this morning's newspaper. Did you have a chance
24 to see that?

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1 JUROR HILL: No, sir.

2 THE COURT: Has anybody talked to you about this
3 or any other articles so far that have been in the paper
4 or on television?

5 JUROR HILL: No, sir.

6 THE COURT: Wonderful. I expected that you would
7 follow my instructions.

8 JUROR HILL: All of our papers are folded in
9 rubber bands.

10 THE COURT: You'd better get back there. There
11 might be some sale or something ---

12 JUROR HILL: No, I'm afraid to touch them.

13 THE COURT: Thank you very much.

14 Please bring back Martha Brady.

15

16 WHEREUPON, Martha Brady was brought back to the
17 jury room.

18 THE COURT: Good morning.

19 JUROR BRADY: Good morning.

20 THE COURT: How are you?

21 JUROR BRADY: I'm fine. How are you?

22 THE COURT: I'm okay. It's a Friday and another
23 weekend of rain.

24 Every morning there has been a piece in the

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1 paper, and we're doing kind of a status check. Have you
2 had a chance to see anything in the paper?

3 JUROR BRADY: This morning, I looked at James
4 Dent's column, but I folded the paper over.

5 THE COURT: I expected that's what you did. Has
6 anybody else said anything about this case or anything?

7 JUROR BRADY: No.

8 THE COURT: That's marvelous. I thank you very
9 much. If anybody should say anything, will you let me
10 know?

11 JUROR BRADY: Yes, sir.

12 THE COURT: Thank you very much.

13 Please bring in Michele Williamson.

14

15 WHEREUPON, Michele Williamson was brought to the
16 jury room.

17 THE COURT: Good morning. How are you?

18 JUROR WILLIAMSON: I am fine.

19 THE COURT: Let me ask you this -- there has been
20 a piece so far as I can tell, in the morning and the
21 afternoon papers every day on this case. There was a
22 piece in there this morning; did you see it?

23 JUROR WILLIAMSON: I don't read the papers.

24 THE COURT: Did anybody talk to you about it?

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1 JUROR WILLIAMSON: No, I've been real lucky.

2 THE COURT: Terrific. If anybody should say
3 anything about anything in the newspapers or on
4 television, I suspect there may also be radio coverage,
5 would you please let us know?

6 JUROR WILLIAMSON: I sure will.

7 THE COURT: Thank you.

8 Okay. We're ready for Nolan Holstein.

9
10 WHEREUPON, Nolan Holstein was brought to the jury
11 room.

12 THE COURT: Hi, Mr. Holstein. How are you?

13 JUROR HOLSTEIN: Fine.

14 THE COURT: Every day both newspapers have had
15 some coverage about this case. I just wondered if you
16 saw a piece in this morning's paper?

17 JUROR HOLSTEIN: No, I haven't. The only thing
18 I saw was your picture and his picture on the front of
19 the newspaper one day this week. Somebody had it in
20 there. We kept turning it over, and somebody kept
21 turning it back over.

22 THE COURT: Do you mean back in the jury room?

23 JUROR HOLSTEIN: Right.

24 THE COURT: Good for you. I take it, then, that

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1 nobody has talked to you about anything in this case?

2 JUROR HOLSTEIN: No, sir.

3 THE COURT: Good. If anybody should do that,
4 would you tell me?

5 JUROR HOLSTEIN: Yes, sir.

6 THE COURT: Marvelous. Thank you very much.

7 JUROR HOLSTEIN: If they do, I'll try my best to
8 get their names.

9 THE COURT: Thank you.

10 Okay. Wanda Young.

11

12 WHEREUPON, Wanda Young was brought to the jury
13 room.

14 THE COURT: Good morning, Ms. Young. How are
15 you?

16 JUROR YOUNG: Fine, thank you.

17 THE COURT: We're just doing a sort of periodic
18 check. There has been newspaper coverage of this case
19 every day. Have you seen anything in the newspapers?

20 JUROR YOUNG: No, sir.

21 THE COURT: Did you see anything this morning?

22 JUROR YOUNG: No.

23 THE COURT: Has anybody talked to you about any
24 of the articles that were in the newspaper or on

1 television?

2 JUROR YOUNG: No.

3 THE COURT: Good. If someone should come to you
4 and offer some information, please let me know.

5 JUROR YOUNG: All right.

6 THE COURT: Thank you.

7 Please bring in Ms. Fawcett.

8

9 WHEREUPON, Alice Fawcett was brought to the jury
10 room.

11 THE COURT: Hi, Ms. Fawcett. How are you this
12 morning?

13 JUROR FAWCETT: Fine, thank you.

14 THE COURT: Great. We've had news coverage of
15 this case by just about every news media, although I
16 haven't heard it on the radio. I'm just wondering if you
17 saw a news article in the newspaper this morning?

18 JUROR FAWCETT: No, I haven't read the newspaper
19 or listened to the news since this trial started.

20 THE COURT: Marvelous. We couldn't ask for
21 anything more. Have you heard anybody -- has anybody
22 told you about anything?

23 JUROR FAWCETT: No.

24 THE COURT: Good. Well, if somebody should do

1 that, please tell me.

2 JUROR FAWCETT: Nobody knows that I'm on this
3 trial.

4 THE COURT: Nothing would please me any better
5 than that. Thank you.

6 We're ready for Beverly Samples.

7

8 WHEREUPON, Beverly Samples was brought to the
9 jury room.

10 THE COURT: Hi, Ms. Samples. Are you catching a
11 cold?

12 JUROR SAMPLES: I think I'm trying to.

13 THE COURT: We've had newspaper and television
14 coverage every day that we've been on this case. Have
15 you seen anything -- any kind of coverage?

16 JUROR SAMPLES: No.

17 THE COURT: Did you see the piece in this
18 morning's paper?

19 JUROR SAMPLES: No.

20 THE COURT: Have you heard anybody discuss the
21 case or any news coverage?

22 JUROR SAMPLES: No. I have been trying to avoid
23 it the best I can.

24 THE COURT: That's all I ask. Thank you.

1 Okay. Bring in George Ball, please.

2

3 WHEREUPON, George Ball was brought to the jury
4 room.

5 THE COURT: Good morning. How are you, Mr. Ball?

6 JUROR BALL: Fine.

7 THE COURT: You may or may not know that we've
8 had newspaper and television coverage every day of this
9 trial. Have you seen any articles in the newspaper this
10 morning?

11 JUROR BALL: No.

12 THE COURT: Has anybody talked to you about any
13 newspaper or television coverage?

14 JUROR BALL: No.

15 THE COURT: If anybody should try to bring any of
16 that information to your knowledge, would you tell me
17 about it?

18 JUROR BALL: Yes.

19 THE COURT: That's all I need to know. Thank
20 you.

21

22 WHEREUPON, Juror Ball returned to the Jury
23 Lounge.

24

1 MR. BICKLEY: I'm going to tell you about a phone
2 call, obviously, that we can't use in the trial.

3 We had a phone call last evening up at my office.
4 This guy asked me -- he wouldn't give me his name -- and
5 I put him on the speaker phone, and I said, "Can I put
6 you on the speaker phone, I have my other colleagues
7 here?" He said, "Which lawyer are you?" And I said,
8 "Why?" He said, "I want to tell you something, but I
9 want to know which lawyer you are." I said, "What
10 difference does that make, if you're not going to tell
11 me your name? Just tell me what you're going to tell
12 me."

13 I didn't know which way to jump. So, he said,
14 "Are you Moss's lawyer or are you Reggett's lawyer?"
15 And I said, "Well, first, you tell me who you are." He
16 said, "Well, I'll tell you anyway." He said, "Reggett
17 did it." I said, "What?" He said, "Reggett did it."
18 I said, "Reggett did what? Why don't you come forward?
19 How do you know that?" He said, "Reggett's wife told
20 my wife a week before she died that she was going to get
21 killed."

22 I said, "I don't think we can use that, but I'd
23 like for your wife to go talk to the Prosecutor. We
24 can't do anything in Court. I don't think I can get it

1 in." But I said, "That's some interesting information
2 for the world to know about." I said, "How long have you
3 been keeping this information?"

4 He said, "I don't like that guy. Do you know
5 where Mrs. Reggettz had to sleep?" I said, "I don't have
6 any idea." He said, "She had to sleep with the kids, and
7 when he wanted to make love, she had to go back over to
8 his bed, then he would put her back out. I hated that
9 guy. He would make her divide up one hot dog for three
10 people." And he went on and on.

11 THE COURT: And that guy never identified
12 himself?

13 MR. BICKLEY: He never identified himself. He
14 wouldn't tell me who he was.

15 MS. BECKETT: A friend of Paul's though.

16 MR. BICKLEY: He said he'd been a friend of Paul
17 Reggettz.

18 THE COURT: If he knows those things and they are
19 true, that sounds like he's a damned good friend, not to
20 tell it.

21 MS. BECKETT: He said they used to be together as
22 couples and families.

23 MR. BICKLEY: They also heard him on the speaker
24 phone. He said, "I just wanted you to know," and then

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1 he called back later about this sex thing, said she slept
2 in the other bedroom, and then whenever Reggettz felt
3 amorous, she was summoned.

4 I'm just reporting to you.

5

6 WHEREUPON, the proceedings in the jury room were
7 concluded.

8

9 (Back on the Record in the Courtroom)

10

11 THE COURT: Okay. Steve.

12 MR. REVERCOMB: We call Arbutus Johnson to
13 testify.

14

15 WHEREUPON, Arbutus Johnson Pomeroy was duly
16 sworn, and upon her oath, deposed as follows:

17

18 DIRECT EXAMINATION

19

20 BY MR. REVERCOMB:

21

22 Q Would you state your name for the
23 record, please?

24 A Arbutus Pomeroy.

Pomeroy - Direct

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1 Q Could you speak up, please, so we all
2 can hear you?

3 A Arbutus Pomeroy.

4 Q And Ms. Pomeroy, you're from Texas now?

5 A Yes, sir.

6 Q Where did you live in 1979?

7 A St. Albans, at the Town 'N Country
8 Motel.

9 Q And what -- did you work there?

10 A Yes, I was the manager.

11 Q And is that in St. Albans, Kanawha
12 County, West Virginia?

13 A Yes.

14 Q I would call your attention more
15 specifically to December of 1979, and ask you if you were
16 working in St. Albans then?

17 A Yes.

18 Q And were you at that time acquainted
19 with the defendant, John Moss?

20 A Yes.

21 Q How did you know him?

22 A He was a friend of my son, Billy. They
23 went to school together.

24 Q Did he come to your home?

Pomeroy - Direct

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1 A Yes.

2 Q Do you recall the homicide -- the
3 murders that occurred down there in December of 1979?

4 A Yes, I do.

5 Q Did you see John Moss after those
6 murders?

7 A Yes.

8 Q Let me ask you, did he give you
9 anything for christmas that year?

10 A Yes, he did.

11 Q What was that?

12 A A set of silverware.

13 Q Ms. Pomeroy, I'm going to hand you what
14 has been marked for identification purposes as State's
15 Exhibit 100, and ask you to examine this exhibit. Have
16 you seen this before?

17 A Yes, I have.

18 Q Where have you seen it before?

19 A At my house. He gave me a set of
20 silverware for Christmas.

21 Q You say he -- is that John Moss, the
22 defendant?

23 A Yes.

24 Q This is the set of silverware that he

Pomeroy - Direct

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1 gave to you in December of 1979?

2 A Yes, or one just like it. That's been
3 a lot of years ago.

4 Q I understand that. Do you recall when
5 he gave this present to you?

6 A It was shortly before Christmas, just
7 a few days before Christmas, during the holidays. He was
8 going to go back to Cleveland, moving back to Cleveland.
9 And he gave it to me, like, the night before.

10 Q Did he give this present to you after
11 the murders?

12 A Yes.

13 Q At that time, did you notice any cuts
14 or marks on him?

15 A Billy came home one day after school

16 ---

17 MR. BICKLEY: Objection.

18 THE COURT: You can't tell us what Billy told
19 you.

20 THE WITNESS: Billy told me that ---

21 MR. BICKLEY: Objection.

22 THE COURT: You can't say what somebody else
23 said.

24 THE WITNESS: John came to our house that night

Pomeroy - Direct

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1 because he was going to be moving the next day, or
2 leaving. So, I was told he was going to come to our
3 house to visit that night.

4

5 BY MR. REVERCOMB:

6

7 Q Did he?

8 A Yes, he came to visit.

9 Q Did you notice any marks or scratches
10 on him?

11 A Yes, he had scratches on his face.

12 Q Would you describe them, the best you
13 remember?

14 A There was just a Band Aid, some
15 scratches and a Band Aid. So, I just asked him what
16 happened?

17 I said, "What happened to your face?" It was
18 just sort of a comment.

19 Q Did John Moss answer you?

20 A No, not really.

21 Q When you say scratches, was there more
22 than one scratch? Could you describe it?

23 A I think there was more than one
24 scratch. There was a Band Aid, like, in the center of